

troller General of the United States shall submit a report to Congress regarding the extent of severely distressed elderly and non-elderly disabled public housing, and recommendations for improving that housing through the HOPE VI program or other means, taking into account the special needs of the residents.”

§ 1437w. Transfer of management of certain housing to independent manager at request of residents

(a) Authority

The Secretary may transfer the responsibility and authority for management of specified housing (as such term is defined in subsection (h) of this section) from a public housing agency to an eligible management entity, in accordance with the requirements of this section, if—

(1) a request for transfer of management of such housing is made and approved in accordance with subsection (b) of this section; and

(2) the Secretary or the public housing agency, as appropriate pursuant to subsection (b) of this section, determines that—

(A) due to the mismanagement of the agency, such housing has deferred maintenance, physical deterioration, or obsolescence of major systems and other deficiencies in the physical plant of the project;

(B) such housing is located in an area such that the housing is subject to recurrent vandalism and criminal activity (including drug-related criminal activity); and

(C) the residents can demonstrate that the elements of distress for such housing specified in subparagraphs (A) and (B) can be remedied by an entity or entities, identified by the residents, that has or have a demonstrated capacity to manage, with reasonable expenses for modernization.

(b) Request for transfer

The responsibility and authority for managing specified housing may be transferred only pursuant to a request made by a majority vote of the residents for the specified housing that—

(1) in the case of specified housing that is owned by a public housing agency that is designated as a troubled agency under section 1437d(j)(2) of this title—

(A) is made to the public housing agency or the Secretary; and

(B) is approved by the agency or the Secretary; or

(2) in the case of specified housing that is owned by a public housing agency that is not designated as a troubled agency under section 1437d(j)(2) of this title—

(A) is made to and approved by the public housing agency; or

(B) if a request is made to the agency pursuant to subparagraph (A) and is not approved, is subsequently made to and approved by the Secretary.

(c) Capital and operating assistance

Pursuant to a contract under subsection (d) of this section, the Secretary shall require the public housing agency for specified housing to provide to the manager for the housing, from any assistance from the Capital and Operating Funds under section 1437g of this title for the

agency, fair and reasonable amounts for the housing for eligible capital and operating activities under subsection (d)(1) and (e)(1) of section 1437g of this title. The amount made available under this subsection to a manager shall be determined by the Secretary based on the share for the specified housing of the aggregate amount of assistance from such Funds for the public housing agency transferring the housing, taking into consideration the operating and capital improvement needs of the specified housing, the operating and capital improvement needs of the remaining public housing units managed by the public housing agency, and the public housing agency plan of such agency.

(d) Contract between Secretary and manager

(1) Requirements

Pursuant to the approval of a request under this section for transfer of the management of specified housing, the Secretary shall enter into a contract with the eligible management entity.

(2) Terms

A contract under this subsection shall contain provisions establishing the rights and responsibilities of the manager with respect to the specified housing and the Secretary and shall be consistent with the requirements of this chapter applicable to public housing projects.

(e) Compliance with public housing agency plan

A manager of specified housing under this section shall comply with the approved public housing agency plan applicable to the housing and shall submit such information to the public housing agency from which management was transferred as may be necessary for such agency to prepare and update its public housing agency plan.

(f) Demolition and disposition by manager

A manager under this section may demolish or dispose of specified housing only if, and in the manner, provided for in the public housing agency plan for the agency transferring management of the housing.

(g) Limitation on PHA liability

A public housing agency that is not a manager for specified housing shall not be liable for any act or failure to act by a manager or resident council for the specified housing.

(h) Definitions

For purposes of this section, the following definitions shall apply:

(1) Eligible management entity

The term “eligible management entity” means, with respect to any public housing project, any of the following entities:

(A) Nonprofit organization

A public or private nonprofit organization, which may—

(i) include a resident management corporation; and

(ii) not include the public housing agency that owns or operates the project.

(B) For-profit entity

A for-profit entity that has demonstrated experience in providing low-income housing.

(C) State or local government

A State or local government, including an agency or instrumentality thereof.

(D) Public housing agency

A public housing agency (other than the public housing agency that owns or operates the project).

The term does not include a resident council.

(2) Manager

The term “manager” means any eligible management entity that has entered into a contract under this section with the Secretary for the management of specified housing.

(3) Nonprofit

The term “nonprofit” means, with respect to an organization, association, corporation, or other entity, that no part of the net earnings of the entity inures to the benefit of any member, founder, contributor, or individual.

(4) Private nonprofit organization

The term “private nonprofit organization” means any private organization (including a State or locally chartered organization) that—

(A) is incorporated under State or local law;

(B) is nonprofit in character;

(C) complies with standards of financial accountability acceptable to the Secretary; and

(D) has among its purposes significant activities related to the provision of decent housing that is affordable to low-income families.

(5) Public nonprofit organization

The term “public nonprofit organization” means any public entity that is nonprofit in character.

(6) Specified housing

The term “specified housing” means a public housing project or projects, or a portion of a project or projects, for which the transfer of management is requested under this section. The term includes one or more contiguous buildings and an area of contiguous row houses, but in the case of a single building, the building shall be sufficiently separable from the remainder of the project of which it is part to make transfer of the management of the building feasible for purposes of this section.

(Sept. 1, 1937, ch. 896, title I, §25, as added Pub. L. 105-276, title V, §534, Oct. 21, 1998, 112 Stat. 2579.)

PRIOR PROVISIONS

A prior section 1437w, act Sept. 1, 1937, ch. 896, title I, §25, as added Pub. L. 102-550, title I, §121(b), Oct. 28, 1992, 106 Stat. 3701; amended Pub. L. 104-330, title V, §501(b)(10), Oct. 26, 1996, 110 Stat. 4042, known as the Choice in Public Housing Management Act of 1992, related to choice in public housing management, prior to repeal by Pub. L. 105-276, title V, §§503, 534, Oct. 21, 1998, 112 Stat. 2521, 2579, effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement repeal before such date, and with savings provision.

EFFECTIVE DATE

Section effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision

that Secretary may implement section before such date except to extent otherwise provided, see section 503 of Pub. L. 105-276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

§ 1437x. Environmental reviews**(a) In general****(1) Release of funds**

In order to assure that the policies of the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds under this subchapter, and to assure to the public undiminished protection of the environment, the Secretary may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for the release of funds for projects or activities under this subchapter, as specified by the Secretary upon the request of a public housing agency under this section, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary may specify, which would otherwise apply to the Secretary with respect to the release of funds.

(2) Implementation

The Secretary, after consultation with the Council on Environmental Quality, shall issue such regulations as may be necessary to carry out this section. Such regulations shall specify the programs to be covered.

(b) Procedure

The Secretary shall approve the release of funds subject to the procedures authorized by this section only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects or activities, the public housing agency has submitted to the Secretary a request for such release accompanied by a certification of the State or unit of general government which meets the requirements of subsection (c) of this section. The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the release of funds which are covered by such certification.

(c) Certification

A certification under the procedures authorized by this section shall—

(1) be in a form acceptable to the Secretary;

(2) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;

(3) specify that the State or unit of general local government under this section has fully