CHAPTER 1. GENERAL INSURANCE REQUIREMENTS

1-1. INTRODUCTION.

This Guidebook will assist the Public Housing Agencies/Indian Housing Authorities (hereafter referred to as HAs unless a distinction is to be made) in complying with the requirements for purchase of the property/casualty insurance coverages required under the Annual Contributions Contract (ACC) executed by HAs and the United States of America, for the Public and Indian Housing Programs. This Guidebook also provides guidance for Field Offices in the approval of required insurance policies. Throughout this Guidebook, reference is made to various types of insurance coverage. The reader should keep in mind, however, that every insurance policy contains various insuring agreements, conditions, and exclusions, and it would be beyond the scope of this Guidebook to provide a detailed analysis of each type of policy. Specific questions regarding coverage can only be determined by a review of the policy itself.

Note: The insurance business may cycle (every four to six years) through periods of increased availability and competitive pricing insurance coverages (a soft market) followed by a period of restricted availability, low competition and an increase in the cost of the coverages (a hard market). During a hard market, HAs have difficulty in purchasing the required coverages in the recommended amounts and under the terms as specified herein. The Department has no direct control or influence on the insurance market.

1-2. INSURANCE REQUIREMENTS FOR HAs.

a. The ACC sets forth the general requirements for property/casualty insurance to be procured by HAs. These requirements are intended to provide the minimum insurance needed to protect the federal interest in HA properties and operations. Reproductions of Section 13 and ATTACHMENT VII of the ACC are shown in Appendix One and Two of this Guidebook. Certain types of insurance are required if an exposure to loss exists. Others are optional but recommended. While the ACC does require HUD to monitor the procurement of insurance, the responsibility for procurement rests with each HA.

b. Any dwelling unit being sold to a homebuyer, pursuant to the provisions of 24 CFR 904 - Low Rent Housing Homeownership Opportunities Program and 24 CFR 950, must remain in the insurance inventory of the HA and the HA must maintain the required insurance coverages on the dwelling unit until such time as the title to the dwelling unit is transferred to the homebuyer.

After transfer of title, all coverages become the responsibility of the homebuyer.

1-3. AUTHORIZED INSURANCE COMPANIES.

a. The ACC requires that insurance be purchased from licensed or duly authorized insurance companies. An insurance company may be duly authorized to write insurance in a particular state, even though they are not licensed. These companies are referred to as "excess and surplus lines" companies. They are specialty insurance companies that do not deposit funds in the state, but qualify to write certain types of coverage not handled by other companies. Normally, premiums charged by these companies are higher than those charged by companies that are licensed by the state. Also, most states do not allow excess and surplus lines companies to insure a risk unless it has been declined by a specific number of licensed companies. Some state laws publish a list of approved companies, but others remain silent.

b. Although HUD does not set mandatory standards for a financially sound and responsible insurance company, it is recommended that a HA accept as satisfactory evidence of adequate capital/surplus and reserves, a rating received within one year before its selection by the HA, of at least "Class VI" for financial status and at least "B+" for performance from the A.M. Best Company, or a rating of at least "A" from Demotech, Inc., or a Financial Performance Index (FPI) rating from the A.M. Best Company of "6" or higher for a company in the NA-3 category (Insufficient Operating Experience). A company not rated by A.M. Best Company or Demotech should demonstrate the adequacy of its capital/surplus and reserves by submitting a current audited financial statement or an actuarial review.

1-4. CANCELLATION AND REWRITING OF IN-FORCE INSURANCE POLICIES.

The competitive bidding requirements of 24 CFR 85.36 and 24 CFR 950, as well as requirements in any current or subsequently published HA Procurement Guidebook, should be followed in obtaining any new insurance policy, whether during or at the end of the term of an existing policy. A HA shall not cancel and rewrite any coverage without being subject to competitive bidding for the replacement coverage.

1-5. MASTER INSURANCE POLICIES/GROUP INSURANCE.

a. Master or group insurance policies allow premium reductions to occur through the concept of group buying power. Under this concept, two or more HAs solicit and procure through competitive bidding one or more types of coverages through a single insurance company. This is usually done by grouping HAs with the same coverage requirements and, located within the same geographic area, such as a county or state. The arrangement may also be extended to include HAs located in adjoining states. Savings occur because this method of procurement allows insurance companies to more efficiently and economically process applications and spread the risks to all participants.

b. Headquarters should review and approve all bid specifications for a master or group insurance policy prior to the advertisement of an Invitation For Bid (IFB) Headquarters should review all responses to the IFB and should concur in the award of the contract. The IFB and the responses should be forwarded to the Assistant Secretary for Public and Indian Housing, Finance and Budget Division.

1-6.

The HA must maintain adequate coverage based on its risks. The Department has recommended a minimum amount of coverage for each line of insurance. In most cases, the stated minimum has proven to be "adequate." However, in the litigious climate and high court awards of recent years, it is extremely difficult to estimate an adequate limit for bodily injury liability claims. The HA should purchase additional coverage if they feel that the minimum limits are not adequate and they should determine the amount of coverage necessary to protect the interests of the HA and the Federal government.

1-7. BID PROTESTS.

a. It is not uncommon for an unsuccessful bidder to lodge a protest with HUD following the award of an insurance contract to another agent/broker.

b. HUD may not review the protest until after the protester has exhausted all administrative remedies with the housing authority and, then, only if the protest involves: (1) a violation of Federal law or regulation and the procurement standards at 24 CFR 85.36 and/or (2) violations of the housing authority's procedures for failure to review a complaint or protest.

c. The protestor should be advised accordingly in writing, with a copy to the housing authority.

1-8. RESIDENT MANAGEMENT CORPORATIONS [RMC).

If a HA contracts with an RMC, the RMC must meet certain insurance requirements. Before assuming any management responsibilities, the RMC must provide evidence to the HA of employee dishonesty insurance, commercial general liability insurance, workers' compensation insurance and owned and non-owned automobile liability insurance, as outlined in Chapter 3, 4, 5 and 8 of this handbook. Property insurance on buildings is not required since this is the responsibility of the HA. In lieu of purchasing commercial general liability insurance, the RMC may be added to the HA's policy as an insured. However, if the HA policy has a deductible of $50,000 or higher, the RMC should be required to purchase a policy with a limit to equal the deductible. If the RMC does purchase liability insurance, it would be to the advantage of both parties if the HA and the RMC are insured by the same insurance company.

1-9. MULTI-PERIL POLICIES.

In recent years, most insurance companies have begun to issue package policies which combine many types of insurance, such as property, liability, and employee dishonesty. In view of the savings that can be achieved by placing all lines of insurance with one company, it is recommended that a HA consider their insurance program as a whole, rather than insisting upon quotations for separate coverages.