

Legal Opinion: GCH-0008

Index: 2.185, 2.265

Subject: ACC--Repair and Reconstruction

November 4, 1991

NOTE TO: BILL THORSEN

FROM: MICHAEL REARDON

SUBJECT: ACC Waiver - Assisted Housing Risk Management  
Association (AHRMA)

This is in response to your note of October 25, 1991 which has been referred to me. You have requested our opinion regarding establishing a threshold in repair and reconstruction cases similar to that under CIAP. We understand that you suggest that the Field Offices should be permitted to establish the threshold based on past performance and in-house technical capability (with no dollar ceiling on the threshold). Your situation differs from CIAP. Paragraph 9-6 of the CIAP Handbook 7485.1 REV-4 applies to modernization threshold standards for procurement and implements agency review requirements permitted by 24 CFR § 85.36(g).

The ACC has imposed the additional HUD review requirement for reconstruction and restoration. A CIAP threshold approach cannot be used without an amendment to the ACC or case by case waivers. See section 512 of the Terms and Conditions Constituting Part Two of a Consolidated Annual Contributions Contract Between Local Authority and the United States of America. Section 512 provides that any right or remedy which HUD may have under the ACC may be waived in writing or amended by a written mutual agreement of the parties as long as there is no impairment of HUD's obligation to pay annual contributions.