



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

Special Attention of:

Public Housing Agencies
Public Housing Hub Directors
Public Housing Program Center Directors
Regional and Field Office Directors
Resident Management Corporations

Notice PIH-2020-03

Issued: February 28, 2020

This notice remains in effect until amended, superseded or rescinded

Subject: Public Housing Operating Fund (OpFund) Grant Eligibility Calculations and Processing for Calendar Year (CY) 2020

1. Purpose.

This notice provides public housing agencies (PHAs) with instructions for calculating OpFund grants for CY 2020 and establishes submission deadlines.

2. Background.

The OpFund Grant program is authorized under the United States Housing Act of 1937 (42 U.S.C. *et seq.*). Regulatory requirements for the OpFund Grant program are located at 24 CFR part 990. For CY 2020, funding for the OpFund Grant program was allocated by Congress through the 2020 Appropriations Act. The OpFund Grant program is administered as follows:

- A. HUD provides OpFund grants for public housing at the project level on a calendar year basis. PHAs must submit, electronically, separate OpFund grant calculations for each project identified in HUD's Inventory Management System/Public and Indian Housing (PIH) Information Center (IMS/PIC).
- B. PHAs enter unit status data into IMS/PIC, which is used by HUD to calculate the OpFund grant formula. PHAs must ensure the unit status data in their OpFund grant submissions are correct and, if needed, work with their respective HUD Field Office (FO) to edit their unit status data.
- C. PHAs receiving transition funding (as defined in 24 CFR 990.115) should be aware that continued qualification for that element of the formula requires continuous compliance with asset management requirements stipulated in 24 CFR 990 Subpart H.
- D. Beginning with the Consolidated Appropriations Act, 2008 (Public Law 110-161, approved December 26, 2007), Congress allowed PHAs with 400 or fewer public

housing units to elect to be exempted from any asset management requirements imposed by HUD relating to the OpFund Grant rule. Section 213 of the Consolidated Appropriations Act, 2020 (Public Law 116-94, approved December 20, 2019) retains the 400-unit limit.

3. Applicability.

This notice applies to public housing agencies (PHAs) administering the Public Housing program including PHAs participating in the Moving to Work (MTW) Demonstration

4. Changes.

Compared to Notice PIH-2018-23, the following changes and additions are included in this Notice.

- A. Subject: The subject of this document has been changed from ***Public Housing Operating Subsidy Eligibility Calculations for Calendar Year (CY) 2019*** to **Public Housing Operating Fund (OpFund) Grant Eligibility Calculations and Processing for Calendar Year (CY) 2020**.
- B. Mixed Finance Modernization: This section pertains to a subset of mixed finance projects whereby a PHA disposes of conventional public housing units and returns them after modernization to the PHA's inventory as mixed financed public housing units.
- C. EnVision Center Participation: This provides guidance on the topic, such as how units used for EnVision Center activities will be classified.
- D. MTW Alternative Operating Subsidy (AOS) agencies' submission of form HUD-52723 for CY 2020 OpFund Grant Eligibility: The submission timeline of form HUD-52723 and the required back-up documentation of MTW AOS calculations of CY 2020 OpFund Grant Eligibility.
- E. The General Depository Agreement (GDA) – form HUD-51999. This guidance ensures that all program receipts associated with public housing are covered by a GDA.

5. HUD's Initial and Calendar Year Obligations of CY 2020 OpFund Grant.

HUD generates an inventory of projects eligible for funding based on IMS/PIC building and unit data and notifies PHAs when the list is available via the Financial Management Division's (FMD's) listserv. PHAs sign up to be on the FMD's listserv here:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/am

PHAs should review and validate the list or contact and advise their respective FO within 10 business days if there are any errors (e.g., eligible projects missing from the list or ineligible projects included in the list). HUD uses the validated inventory to generate the Forms HUD-52723 and HUD-52722 (also referred to as Excel tools – see Section 6). PHAs then use the

Excel tools to request CY 2020 OpFund grants. If HUD generates Excel tools for a project that is not eligible, the PHA should not submit the Excel tools. At the beginning of the year, during the period of time when HUD funds projects based on an estimate of eligibility, only projects that are part of the CY 2020 Validated Inventory will receive funding.

Each time HUD funds projects, the funding is calculated on a cumulative basis (e.g., funding for February would bring total funding for the year up to 2/12ths of prorated eligibility, and funding for March would bring total funding for the year up to 3/12ths of prorated eligibility). At the beginning of the year, when HUD funds projects based upon an estimate of eligibility, it normally uses the data that it pre-populates into the Excel tools to make this estimate. After the Excel tools are processed, HUD funds projects based upon the eligibility shown in those Excel Tools. As Excel tools are updated throughout the year, HUD funds projects based upon the most recently processed Excel tools. There is a lag in funding PHAs based upon updated Excel tools because of the time required to process the Excel tools and obligate funds. PHAs can identify the most recent tool processed by HUD in the Operating Fund (OpFund) Web Portal, discussed below.

On a portfolio level, HUD's estimated funding is normally very close to funding based upon actuals (i.e., funding based upon Excel tools submitted by PHAs). However, for individual projects, if the estimate is different than actual eligibility, funding may vary when HUD switches from funding based on estimates to funding based on actuals. If a PHA finds that the estimated eligibility exceeds the project's actual eligibility for CY 2020, the PHA shall not draw down any excess funds and shall immediately notify the appropriate FO. HUD will offset, de-obligate, or require repayment of any funded amounts for any project deemed ineligible or any project overfunded based on incorrect estimates.

HUD publishes obligation documents, which identify the amount of funds obligated throughout the calendar year. HUD publishes a detailed calculation report with every obligation that helps PHAs to understand fluctuations they may experience in funding amounts.

FMD deployed the OpFund Web Portal, which allows PHAs access to Operating Fund processing, methodologies, and historical data. For CY 2020, this data will also be available on the CY 2020 OpFund Grant Processing webpage (at the end of Section 3 of this notice). FOs certify and submit Form HUD-52723 and Form HUD-52722, resolve Quality Control (QC) findings and submit any revisions through the OpFund Web Portal. The OpFund Web Portal is used to:

- Export Form HUD-52723 or Form HUD-52722 data processed by HUD to Excel or generate PDF versions of the same information,
- Query/report functionality related to historical eligibility data, and
- Identify the status of new project requests.

HUD continues to add functionality to the OpFund Web Portal available through HUD secured systems. Information related to assigning users and appropriate roles can be found at:

https://www.hud.gov/program_offices/public_indian_housing/programs/ph/am/webportal

6. General OpFund Grant Submission Processing for CY 2020

Required Forms and Documentation

For HUD to determine the amount of OpFund grants that PHAs receive, they must complete and submit the following electronic forms for each project via email to the appropriate FO:

- A. Form HUD-52723: information on this form is used to calculate the amount of operating fund grant eligibility.
- B. Form HUD-52722: information on this form is used to calculate utilities expense level
- C. SF-424, Application for Federal Assistance: PHAs must also submit (via email to the appropriate FO) signed SF-424—required as part of the government-wide *e-grants* management initiative. The CY 2020 OpFund Grant Processing webpage contains guidance on how to complete the SF-424 and a list of certifications and assurances. Each PHA shall submit only one SF-424 via email to the appropriate FO. (A PHA may fax the SF-424 with prior FO approval.). To clarify specifically what the PHAs are certifying to via the SF-424, HUD created a list of certifications that the SF-424 applies to—which is included in this notice—and published that list on its FMD’s external web site, here:

<https://www.hud.gov/sites/dfiles/PIH/documents/SF-424-CERTIFICATIONS-ASSURANCES.V2.pdf>

Public Housing Operating Fund Calculation of Operating Fund PHA-Owned Rental Housing Form HUD-52723, Section 5, Certifications:

- 1. Based on PHA submission of the Form HUD-52723 - I hereby certify the information provided on this form and in any accompanying documentation is true and accurate. I acknowledge that making, presenting, submitting, or causing to be submitted a false, fictitious, or fraudulent statement, representation, or certification may subject me to criminal, civil, and/or administrative sanctions, including fines, penalties, and imprisonment. 18 U.S.C. §§ 287, 1001, 1010, 1012, 1014 and 31 U.S.C. §§ 3729, 3802.
- 2. In accordance with 24 CFR 990.215, I hereby certify that _____ Housing Agency is in compliance with the annual income reexamination requirements and that rents and utility allowance calculations have been or will be adjusted in accordance with current HUD requirements and regulations.
- 3. (If applicable) In accordance with Section 225 of the Consolidated Appropriations Act, 2008 (Public Law 110-161, approved December 26, 2007) and subsequent acts containing the same provisions, I hereby certify that _____ Housing Agency has 400 or fewer units and is implementing asset management.
- 4. (If applicable) In accordance with 24 CFR 990.260 of Subpart H – Asset Management, I hereby certify that _____ Housing Agency has 250 units or more and is in compliance with asset management. I understand in accordance with 24 CFR

990.190(f), PHAs that are not in compliance with asset management will forfeit the asset management fee.

D. Form HUD-50071 Certification of Payments to Influence Federal Transactions:

Based on PHA submission of the Form HUD-50071, I hereby certify the information provided on this form and in any accompanying documentation is true and accurate. I acknowledge that making, presenting, submitting, or causing to be submitted a false, fictitious, or fraudulent statement, representation, or certification may subject me to criminal, civil, and/or administrative sanctions, including fines, penalties, and imprisonment. 18 U.S.C. §§ 287, 1001, 1010, 1012, 1014 and 31 U.S.C. §§ 3729, 3802.

Signing the SF-424 does not exempt the Officials from making the appropriate certifications and assurance on the listed documents.

1. PHAs must have a Dun & Bradstreet Data Universal Numbering System (DUNS) identification and number as well as active registration in the System for Award Management (SAM; www.sam.gov) to receive OpFunds. The OpFund webpage provides directions on how to obtain a DUNS number. **HUD will suspend or not obligate Operating Fund Grant for PHAs that do not comply with these requirements.**
2. Form HUD-50071, Certification of Payments to Influence Federal Transactions. Each PHA shall submit (via email to the appropriate Field Office) only one Form HUD-50071.
3. Other supporting documentation requested by the FO and submitted via email.

7. Submission Process

Instructions for completing Excel tools and other required documents, submission deadlines, and guidance materials related to various formula elements are posted to the OpFund grant webpage (see link at the end of Section 3 of this notice). Failure to meet the posted submission deadline are grounds to deny OpFund Grants to a PHA.

NOTE: PHAs must submit the Excel tools (Forms HUD-52723 and HUD-52722) and other required documents to HUD regardless of whether they are prepared by their fee accountants or any other entity acting on behalf of the PHA. Fee accountants or entities other than the PHA are not to submit the Excel tools and other required documents directly to HUD.

8. Pre-populated Data

To reduce PHA reporting burden, PHA provided information within HUD systems pre-populate the CY 2020 Excel tools. Unit status for the reporting period *July 1, 2018 through June 30, 2019* is extracted from IMS/PIC, then summarized at the project level and used to pre-populate the CY 2020 Excel tools in accordance with 24 CFR 990.135. Asset Repositioning Fee (ARF) eligibility is determined by IMS/PIC data and pre-populated into the Form HUD-52723. Unit status data from IMS/PIC is modified based on the ARF eligibility determinations. If pre-populated data is incorrect, PHAs request modifications in the comments section of the Form HUD-52723, or

request edits from their FO. Table 1 presents which edits can be made by PHAs and which can be made by FOs.

Table 1: CY 2020 Pre-populated Formula Data

Item Description	PHA Can Edit	FO Can Edit
Project Number	No	No
Name of PHA	No	No
Address of PHA	No	No
DUNS Number	Yes	Yes
Total number of ACC units for the PHA	No	Yes
Unit status data: Form HUD-52723, Section 2, Categorization of Unit Months, Lines 01, 02, and 05 through 13	No	Yes
*Unit status data: Form HUD-52723, Section 2, Categorization of Unit Months Lines 03 and 04; Column A, Lines 6a and 17, Column B	Yes	Yes
Per Unit Month (PUM) project expense level (PEL)	No	No
PEL inflation factor	No	No
Utilities expense level (UEL) inflation factor	No	No
Payment in lieu of taxes (PILOT)	Yes	Yes
Cost of independent audit	Yes	Yes
Asset Repositioning Fee (ARF): Form HUD-52723, Section 3, Line 14	Yes	Yes
PUM formula income	Yes	Yes
**Transition funding	No	No

*In the Form HUD-52723, unit status data in Section 2, Categorization of Unit Months, Column A, Lines 03 and 04 are for new units that do not have a full reporting period of unit status data.

** PHAs that did not comply with asset management in a prior funding cycle, will not have transition funding pre-populated into their Form HUD-52723

Non-asset management PHAs with multiple projects in IMS/PIC may report a single combined project in the FASS-PH Financial Data Schedule (FDS) requirements. The FDS to be used is two years before funding year. If a non-asset management PHA has multiple projects in IMS/PIC, it will continue to submit Excel tools for each project. The Form HUD-52723 contains formula data elements tied to IMS/PIC project data such as the PEL and unit status data. Submission of a Form HUD-52723 for each project ensures that the PEL and unit status data are aligned to IMS/PIC data. Formula Income, PILOT, and Audit will be pre-populated only for the project that submits FDS data. Because this FDS data relates to multiple projects, it will need to be allocated to the sections of the Excel tools that were not pre-populated with this data. The cumulative amount for all projects for each line item must tie to the pre-populated data, unless adjusted pursuant to Operating Fund guidance (i.e., Formula Income can be adjusted for FSS, PILOT and audit fees can be updated to reflect more recent expenditures). Guidance is available

on the Operating Fund Processing webpage on published guidance on how to allocate Formula Income.

9. Changes to Categorization of Unit Months Pre-Populated Data

Prior to requesting a change to unit status data, PHAs must ensure the source data in IMS/PIC is changed to remain consistent with the Form HUD-52723. Most changes to IMS/PIC can be made directly by PHAs. Some changes require a IMS/PIC Coach or a Technical Assistance Center (TAC) ticket. PHAs ensure that changes are made as early as possible, but prior to submitting the Excel tools to their FO. HUD posts pre-populated unit status data via the OpFund Web Portal in advance of deploying Excel tools. By reviewing the posted data, PHAs initiate efforts to change the source IMS/PIC data before the tools are deployed.

When FOs implement changes to unit status data pre-populated in Section 2 of the Form HUD-52723, if the change results in an increase in funding, the FO either confirms the IMS/PIC data is changed to match the change of unit months in the Form HUD 52723, or, if the PHA or FO is unable to make the change directly in IMS/PIC, obtain documentation of a TAC ticket created to modify the data, or evidence that the change is appropriate but cannot be made because of system limitations.

10. Submission of New Project Excel Tools for CY 2020 OpFund Grant Eligibility.

PHAs send an email to the PIH FO Director of Public Housing at their local FO, and to their staff point of contact to request funding for new projects. Provided the project has an actual DOFA data in IMS/PIC, HUD generates a PEL and deploys an Excel tool for the project. New project requests may be submitted at any point during the year. HUD deploys Excel tools multiple times during the year to provide timely funding to PHAs.

PHAs may identify the status of any new project request by accessing the New Project module in the OpFund Web Portal. However, to receive funding for a new project in 2020, PHAs must email their FO with a request that such projects receive funding no later than June 1, 2020. HUD encourages PHAs to request new project tools quickly and early. The FO must complete a request for a new project in the OpFund Web Portal no later than June 8, 2020.

HUD makes the final deployment of forms HUD-52723s and HUD-52722s and notifies PHAs via email no later than June 15, 2020. PHAs must email the above forms to the appropriate HUD Field Office no later than June 22, 2020, to receive funding in 2020. **Submissions received after the deadline will not be considered for funding in CY 2020.** Instead PHAs may include eligible unit months for October, November, and December in their CY 2021 submission in Section 2, Categorization of Unit Months, Column A, Line 04. Section 2, Column A, Line 4 is reserved for new units that were occupied in the previous calendar year and not included in the previous calendar year submission's eligible unit months.

HUD provides OpFund grants to units under an ACC, in Management Status in IMS/PIC, and that meet one of the below criteria:

- Units are occupied by a public housing-eligible family under lease per 24 CFR 990.125(a).
- Units with HUD-approved vacancies (including special use units) per 24 CFR 990.125(b) as defined in 24 CFR 990.145; or
- Units are at or below the limited number of vacancies per 24 CFR 990.125(c) as defined in 24 CFR 990.150.

Units eligible to receive the full amount of OpFund grants are included in the PHA's calculation for Project Expense Level (PEL), Utilities Expense Level (UEL), and eligible OpFund Grant Add-ons less Formula Income.

All ACC units, regardless of unit status, are eligible for Information Technology Fees per 24 CFR 990.190(g). All ACC units, regardless of unit status, that meet the requirements for asset management are eligible for Asset Management Fees per 24 CFR 990.190(f). To add a new project in IMS/PIC follow the job aid found here:

https://www.hud.gov/sites/dfiles/PIH/documents/building_unit_uploadjobaid.pdf

11. Submission of Request for Revision to the CY 2020 OpFund Grant Eligibility

The submission of a revised Excel tool by a PHA to its FO constitutes a request for a revision. In making such a submission, the PHA MUST provide an explanation of the change(s) being requested, and the reason for the change(s). Prior to making its revision request, the PHA should initiate contact with the FO well in advance so that they can resolve any issues prior to the revision deadline. PHAs may request revisions to their original CY 2020 Operating Fund grant submissions based on any of the four reasons listed below.

- A. Correction of mathematical, clerical, information system or other errors.
- B. Approval of demolition or disposition with the addition of new units in an existing project (24 CFR 990.155).
- C. New utilities incentives/contracts approved pursuant to 24 CFR 990.185, or amendments to existing approvals, but not including Rate Reduction Incentives (RRI) under 24 CFR 990.185 (b); or 24 CFR 965 Subpart E.
- D. Appeals submitted in accordance with this notice and approved by HUD (pursuant to 24 CFR 990.245).

All revision requests MUST be submitted to the appropriate FO **no later than July 15, 2020**. **Requests after this date will not be accepted, unless the change lowers OpFund Grant eligibility or results from a documented HUD error, in which case such requests are required.**

12. OpFund Grant Calculation

Operation Fund Eligibility = (PEL + UEL)(EUM) + Add-ons – Formula Income (EUM)

EUM – Eligible unit months are the actual number of public housing units in eligible categories expressed in months for a specified time frame and for which a PHA receives operating fund grants

Units and projects eligible for OpFunds include PEL, UEL, formula income and Add-ons in their Operating Fund Formula. The Form HUD-52723 and Form HUD-52722 are programmed to use these components to calculate the OpFund eligibility. Public housing units must be subject to the ACC and be in management status in IMS/PIC to receive OpFunds. For Asset Repositioning Fee (ARF), OpFund Grants are available when meeting the criteria of this Notice and regulations.

Public housing units eligible for the PEL, UEL, formula income and most Add-ons (with the exception of IT fees, and for asset management eligible PHAs, an Asset Management Fee, and ARF) must be: 1) either a unit occupied by a public housing-eligible family under lease pursuant to 24 CFR 990.120(b), 24 CFR 990.125(a), and 24 CFR 990.140; 2) a dwelling unit with a HUD-approved vacancy pursuant to 24 CFR 990.125(b) as defined in 24 CFR 990.145; or 3) a vacant unit at or below the limited number of vacancies pursuant to 24 CFR 990.125(c) as defined in 24 CFR 990.150.

Public housing units occupied by a public housing-eligible family, PHA employee, or police officer or other security personnel who is not otherwise eligible for public housing pursuant to 24 CFR 990.190(e) are eligible for Resident Participation Activities Fee.

A. The PEL

The PEL is a model-generated estimate for each project, exclusive of taxes, utilities, and add-ons. The PEL is expressed as a per unit month (PUM) cost and is based on IMS/PIC project, building and unit characteristics. PELs may change when PHAs regroup their projects. To estimate the impact of project regroupings, PHAs can use the **PEL Estimator** on the Asset Management Project Expense Levels webpage at:

https://www.hud.gov/program_offices/public_indian_housing/programs/ph/am/pels

Project regrouping changes, including transfers and consolidations per Notice PIH-2018-12, which become effective after HUD pulls IMS/PIC project, building and unit characteristics for the calculation of PELs for the coming funding year, will apply to OpFund Grant calculations for the following funding year. In this case, the OpFund Grant program will continue to fund PELs and the project numbers that existed prior the regrouping through the current year and fund based on the regrouped projects in the following funding year. PHAs should ensure that such changes, and their accounting treatment of the OpFund Grant, properly treat the funding provided prior to the change becoming effective in the OpFund Grant program.

B. The UEL and Central Office Cost Center (COCC)

The UEL is a product of the utility rate multiplied by the payable consumption level multiplied by the utilities inflation factor and is expressed as a PUM dollar amount. COCC utility consumption and costs are not included in the calculation of the PHA's project UEL on the Form HUD-52722. If the COCC is located within a project, actual consumption, including the rolling base consumption and utility costs for the COCC, must be excluded from the UEL calculation for the project. PHAs must explain the methodology used to exclude COCC data (e.g., square footage).

To access guidance for excluding COCC utility consumption and costs from combined consumption and costs in a pre-asset management Energy Performance Contract (EPC), use this link below:

<http://portal.hud.gov/hudportal/documents/huddoc?id=epc-cocc.pdf>

When a PHA removes units from inventory with less than a full twelve months of consumption is included in Line 1 of the Form HUD-52722, the consumption for the removed unit(s) is reduced from the rolling base in the Form HUD-52722 at Line 1. Access guidance on how to adjust the rolling base when units are removed from inventory here:

https://portal.hud.gov/hudportal/documents/huddoc?id=rba_guidance.pdf

Section 2 Column B, Lines 04, 15, and 17 of the Form HUD-52723 are used to calculate the number used to populate Line 25 of the Form HUD-52722. Also, the UEL on Line 26 of the Form HUD-52722 must be used to populate Section 3, Part A, Line 5 of the Form HUD-52723. Funding may be suspended for projects where the Form HUD-52723 and Form HUD-52722 are not consistent with each other.

Exclusion of Trash Collection Cost from the UEL. The UEL includes the following utilities: gas, electric, heating fuels, water, and sewer service, consistent with the OpFund definitions at 24 CFR 990.115. Trash collection cost must be excluded when using utility types to calculate UEL in the form HUD-52722. PHA paid trash collection cost are included in the prepopulated PEL PUM formula element. The Harvard Cost Study Project Expense Level (PEL) model acknowledges "Trash removal expenses are treated as a maintenance expense and not a utility expense in the Chart of Accounts for public housing." Where trash collection charges are billed to individual units, PHAs may include trash collection service fees in the tenant utility allowance as provided at 24 CFR 965 Subpart E.

C. Formula Income

Formula income is an estimate of a PHA's non-Operating Fund revenue. The CY 2020 per unit month (PUM) formula income will be pre-populated based on the PHA's

approved FY 2018 FASS-PH Financial Data Schedule (FDS) submission when available. When available, 2018 financial data must be used.

The PUM formula income is calculated in two steps: Step 1: divide the Net Tenant Rental Revenue by Unit Months Leased (UMLs). Step 2: multiply the PUM formula income (determined in Step 1) by the CY 2020 formula income inflation factor. Mixed Finance projects that do not submit Net Tenant Rental Revenue or UMLs in their FDS submission must submit a financial statement and rent roll data from the project's owner entity along with their submission of Operating Fund Excel tools to support the formula income amount included in the Form HUD-52723. The inflation factor used for mixed finance projects will always be based upon the Fiscal Year End (FYE) 12/31, as FYE of owner entities for tax credit projects is always 12/31. This may differ from the PHA's FYE. Guidance on how the formula income inflation factor is derived and the formula income methodology are posted on the CY 2020 OpFund Grant Processing webpage.

Energy Performance Contracts

Special guidance for capturing the resident-paid utilities incentive in a HUD-approved energy performance contract on Form HUD-52723, Section 3, Part B, Line 01, PUM formula income, is on the CY 2020 Operating Fund Processing webpage.

Jobs Plus Earned Income Disregard (JPEID)

A PHA's annual formula income may be adjusted if the PHA participates in the Jobs Plus program. PHAs are not permitted to receive Operating Fund Grant amounts based on rent not collected due to income disregarded while administering a Jobs Plus program (i.e., the JPEID). Since HUD pre-populates formula income with data from the FDS, the JPEID results in an increase to OpFund Grant. HUD will make a manual adjustment to a PHA's forms HUD-52723 and HUD-52722 after submission. Detailed guidance on the methodology used to make JPEID related adjustments to Formula Income will be provided to PHAs during the funding year.

The above noted adjustment does not apply to MTW PHAs subject to an Alternative OpFund Grant formula that do not use FDS data as part of their formula.

Self-Sufficiency Services

The Family Self-Sufficiency (FSS) program enables families assisted through the Public Housing (PH) programs to increase their earned income and reduce their dependency on social services and rental subsidies. Under the FSS program, families living in low-income housing can choose to enter into a contract of participation and are provided opportunities for education, job training counseling and other forms of social service assistance so that they can develop the necessary skills required to achieve self-sufficiency. Also, escrow accounts are established for FSS participants by the PHA.

As a participant's skills increase, earnings likely increase, resulting in an increase in the participant's rent. Under the FSS program, the PHA places the increase in rent into the escrow account. Provision of OpFund Grant amounts to the PHA for its FSS escrow payments is through an adjustment to formula income in the calculation of OpFund Grant in the Form HUD-52723. PHAs reduce the tenant rent portion of formula income (on the Form HUD-52723) by the amount of their FSS escrow payments. PHAs enter appropriate comments in the comment Section of the Form HUD-52723 when FSS escrow adjustments are made. PHAs maintain supporting documentation of how they determined the decrease in formula income and submit the documentation to the FO upon submission of their Excel tools. The FO uses the supporting documents to validate the decrease to formula income.

D. Mixed Finance Modernization

Mixed Finance development can involve modernization rather than new construction. Mixed Finance Modernization involves the use of Low-Income Housing Tax Credits (LIHTC) to modernize and existing Public Housing project. Because of LIHTC rules, ownership of the existing Public Housing project must be transferred to a new owner entity. This requires that the project be removed from inventory (IMS/PIC) via a Section 18 disposition application, then added back to inventory (IMS/PIC) via a development proposal. Such projects retain their DOFA date that existed prior to modernization as described in 24 CFR 905.604. To record a new ownership entity in IMS/PIC, the project must be removed from inventory and a new project added to IMS/PIC; however, the project shall maintain the DOFA date that existed prior to modernization and be subject to 24 CFR 905.304(a)(2).

(a) Impact on OpFund Grants

Public housing units disposed for Mixed Finance Modernization in the exiting project are **not eligible for ARF**. When the PHA submits the Section 18 disposition application via IMS/PIC, the PHA selects Mixed Finance MOD-REHAB as type for units included in the mixed finance with modernization development proposal.

PHAs should add the new project, and enter the removal date for the old project, to IMS/PIC immediately upon closing, and place units still requiring vacancy to complete improvements into the Undergoing Modernization Sub-Category. Once the work that required the unit to be vacant has been completed, even if additional modernization work continues, the unit must be either re-occupied by an eligible family or placed in vacant status.

(b) Designation of Units as Vacant for Modernization

PHAs using Mixed Finance Modernization to modernize public housing units, may submit a request their Field Office to place any units that must remain vacant to undertake the planned modernization work, into the approved vacancy status of Vacant for Modernization. Such units can be placed in this category before the closing of the

mixed finance transaction. The units can be kept in this status for up to two years (24 months) prior to the Mixed Finance Modernization closing.

Once the Mixed Finance Modernization transaction has closed and modernization has begun, the units may remain in the Vacant for Modernization status until work is complete. Once the work that required the unit to be vacant is complete, even if additional modernization work continues, the unit must be either re-occupied by an eligible family or placed in Vacant status.

In order to receive FO approval to place a unit in a Vacant for Modernization status, the planned modernization activity must be in a HUD approved PHA Annual Plan for non-qualified PHAs (24 CFR part 903); a HUD approved 5-Year Plan for qualified PHAs (24 CFR Part 903) (if no Capital Funds are being used as part of the modernization, a narrative description of the work, including the projected start and completion date, should be included in the Capital Improvements section of the Plan); or a HUD approved Capital Fund Program 5-Year Action Plan (24 CFR 905.300) if Capital Funds are also being used for modernization.

Timely adding the new project to IMS/PIC is critical to maintaining uninterrupted funding. A job aid describing how to add a new project to IMS/PIC can found here:

https://www.hud.gov/sites/dfiles/PIH/documents/building_unit_uploadjobaid.pdf

E. Add-ons

The nine additional costs grouped together as add-ons are costs for independent audits, PILOTs, AMF, IT Fees, ARF, Elderly/Disabled Service Coordinator (EDSC), FSS, EPCs and Resident Participation.

1. Cost of Independent Audit

Independent Audit cost is reported for the OpFund Grant Program when required by the Single Audit Act or when a single audit is not required and the PHA elects to have a financial statement audit prepared. To include audit costs in the OpFund Grant, the actual, completed audit must be submitted to HUD. Audits are submitted electronically in accordance with the Uniform Financial Reporting Standards (24 CFR part 5 Subpart H). A PHA whose OpFund eligibility is determined to be zero is still eligible to receive an OpFund Grant amount equal to its most recent audit costs pursuant to 24 CFR 990.190(d). This may occur when program expenses (PEL + UEL) + Add-ons – formula income are equal to or less than zero.

When Financial CY 2018 Data Schedule (FDS) data is available, project audit costs are pre-populated in the form HUD-52723. If the Audit cost is not pre-populated, the PHA shall report its most recent actual audit cost (CY 2019) and attach proof of payment when submitting the CY 2020 form HUD-52723.

For mixed finance projects with both ACC and non-ACC units, the audit costs are prorated to the amount allocable to ACC Public Housing units. The amount is based on the ratio of ACC units divided by total units.

$$\text{Ratio} = \text{ACC units} \div (\text{ACC units} + \text{non-ACC units})$$

2. PILOT

For CY 2020, project PILOT amounts are calculated and pre-populated in the form HUD-52723 based upon approved CY 2018 FASS-PH FDS data. If a PHA submits a form HUD-52723 with a project's PILOT amount that is greater than the amount pre-populated, the PHA must attach proof of payment with the submission.

Regulatory requirements at 24 CFR 990.190(c) stipulate that "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." Section 6(d) of the 1937 Act specifies the PILOT is equal to "10 per centum of the sum of the shelter rents charged in such project, or such lesser amount as (i) is prescribed by State law, or (ii) is agreed to by the local governing body in its agreement for local cooperation with the public housing agency required under Section 5(e)(2) of this Act, or (iii) is due to failure of a local public body or bodies other than the PHA to perform any obligation under such agreement." PILOT is pre-populated in the form HUD-52723 by calculating 10 percent of shelter rents. If one of the lesser amounts identified in (i), (ii) or (iii) above apply, the PHA overrides the pre-populated amount with the lesser amount. For existing projects, the following line items from the Low Rent Public Housing column of the project's audited FASS-PH FDS submission are used to calculate the PILOT:

- 70300 Net Tenant Rental Revenue
- 93100 Water
- 93200 Electricity
- 93300 Gas
- 93400 Fuel
- 93600 Sewer
- 93800 Other Utilities

Calculation: Add Lines 93100 – 93400, 93600 and 93800; subtract the sum from line 70300; multiplying the result by 0.10 (10%) as shown below:

$$\text{PILOT} = [\text{Line 70300} - (\text{Lines: 93100} + \text{93200} + \text{93300} + \text{93400} + \text{93600} + \text{93800})] \times 0.10$$

For mixed finance projects the PILOT may not be prepopulated, in which case the PHA submits the owner entity's Audited Financial Statement to the FO when submitting the CY 2020 form HUD-52723. For mixed finance projects with both

ACC and non-ACC units, the PILOT may need to be prorated to determine the amount allocable to public housing units. This happens only when both non-ACC and ACC units are subject to the PILOT. Public housing units paying real estate taxes and not subject to a PILOT, may not include a PILOT in its OpFund Grant calculation.

3. Asset Management Fee

PHAs with more than 400 public housing units under ACC must comply with asset management requirements under 24 CFR 990.255 - 990.290 (Subpart H). PHAs not in compliance with asset management requirements are not eligible for the asset management fee pursuant to 24 CFR 990.190(f) or stop loss pursuant to guidance in Notices PIH-2007-16 and PIH-2006-35, as amended, and regulations at 24 CFR 990.230(d).

Asset management fees are determined as follows: (1) PHAs with at least 250 units are eligible for a \$4 per unit asset management fee for each month the project is subject to the ACC and in management status; and (2) PHAs with fewer than 250 units that elect to transition to asset management are eligible for a \$2 per unit asset management fee for each month the project is subject to the ACC and in management status. PHAs with only one project, regardless of the number of units, are not eligible for an asset management fee pursuant to 24 CFR 990.190(f). PHAs with one project may continue to receive Stop Loss based on compliance with the limited asset management requirements of their Stop Loss approval. For further explanation, refer to:

<https://www.hud.gov/sites/dfiles/PIH/documents/TransitionStopLossAssetmgmtGuidance.pdf>

4. Information Technology Fee

In accordance with 24 CFR 990.190(g), OpFund calculations include \$2 PUM for costs attributable to information technology based on the total number of ACC units.

5. Asset Repositioning Fee(ARF)

PHAs follow regulatory requirements at 24 CFR 990.190(h). PHAs ensure that PIC data is accurate in calculating their ARF eligibility. Critical data elements include the HUD demolition/disposition/homeownership approval date and, for homeownership, the date of removal from inventory. Additional elements for non-homeownership cases include the days to relocation in the Demo/Dispo module and the End of Participation (EOP) of the first move out after the relocation date. PHAs work with their FO to make corrections. Modifications to the Demo/Dispo module conform with guidance in Notice PIH-2017-22 as amended. ARF is only available for dispositions or demolitions conducted under 24 CFR part 970.

When a unit is eligible for ARF, PHAs move any unit months used to calculate ARF to Section 2 Column A, Line 12 of the Form HUD-52723, except as noted below. After ARF eligibility ends, if the units are not yet removed from IMS/PIC, they are reported in Column A, Line 13.

Section 3, Line 14 of the Form HUD-52723 is prepopulated with ARF eligibility calculated based on IMS/PIC data. However, PHAs must confirm accuracy of this data element and revise as needed prior to submitting their HUD-52723. It is especially important to review the ARF calculation in the first year of ARF eligibility, because after the first year of eligibility PHAs may not change data elements used in the calculation. PHAs submit supporting documentation detailing the ARF calculation for the requested amount. If a PHA changes the prepopulated ARF eligibility, it is an indication that the underlying IMS/PIC data may be inaccurate. The PHA submits the below documents to their FO so the FO can validate accuracy of their calculation or revise accordingly.

If the PHAs calculation is accurate, in addition to changing the prepopulated data in Section 3 Line 14, unit status data in Section 2 of the Form HUD-52723 may also need to be changed. If the underlying IMS/PIC data is inaccurate, the FO works with the PHA and the Special Application Center (SAC) to correct (FO should follow the ARF SOP, which can be found in the internal Op Sub webpage). To initiate corrections, the PHA submits the below documents to their FO along with their Form HUD-52723. The FO may request additional documentation if needed. Present a spreadsheet showing ARF eligibility calculation and related information, including:

- a. Project number and Demo/Dispo application number.
- b. Date of the approval letter.
- c. For non-homeownership, number of days to relocation after the approval letter is issued and the resulting relocation date. For homeownership cases, the disposition date.
- d. For non-homeownership cases, the first move out after the relocation date consistent with the EOP in IMS/PIC or a statement that all units were vacant on the date of the approval letter or the relocation date.

PIH Notice 2017-22 changed HUD's interpretation of the "relocation date" (referenced in 24 CFR 990.190(h)(2)) when determining ARF eligibility of units approved under a Section 32 or 5(h) homeownership plan. Under the prior ARF Notice, PIH Notice 2011-18, the "relocation date" for units in a homeownership plan was defined as "the date that the last public housing resident occupying a unit approved for transition to homeownership either vacates that unit due to the relocation for the homeownership plan or completes the purchase of that unit through a homeownership plan approved by HUD under Section 32 or 5(h) of the Act.";

Under PIH Notice 2017-22, HUD changed its interpretation of “relocation date” for homeownership purposes, and the “relocation date” (“ARF Trigger Date”) was defined as “the date the last unit in each building subject to the DDAP is sold.” Because of HUD’s automated processing, the above referenced change might cause homeownership units vacated or sold between 2011 and 2016 (otherwise eligible for ARF at some point) to never receive ARF. Thus, HUD has determined that the definition of “relocation date” in PIH Notice 2017-22 should be retroactively applied to homeownership plans approved while PIH Notice 2011-18 was in effect.

PHAs with units subject to a Section 32 or 5(h) homeownership plan that were vacated or sold between 2011 and 2016 must email their FOs no later than March 31, 2020 advising them that they have a unit(s) they believe should receive ARF funding. The subject of the email should be “2011 – 2016 ARF Eligible Units.” In the email, for each unit, the PHA should provide the development number, demo/dispo application number, the building number and address, the unit number, and the date the unit was removed from inventory (sold). HUD may require additional information as necessary to verify the request. HUD will review this information to determine if the unit would otherwise have been eligible for funding and may be eligible for corrected funding.

- e. ARF unit months for the project or building(s), which equals the number of ARF eligible months multiplied by the number of ARF eligible units; and
- f. Detailed calculation of ARF funding for each year of eligibility, including ARF unit months, the PEL and the PEL inflation factor.

PHAs revise their Form HUD-52723 submissions to reflect changes in eligibility (based on the removal of units) on a quarterly basis to capture changes in ARF eligibility.

If the entire project is ARF eligible (i.e., all units are disposed of in accordance with section 18 of the 1937 Act and 24 CFR part 970, removed from IMS/PIC and not subject to the ACC), after the date of ARF eligibility, the project is not eligible for the non-ARF portions of the OpFund formula. If a project is only partially ARF eligible, the units that are not ARF eligible remain eligible for non-ARF portions of the OpFund Grant formula.

6. Elderly/Disabled Service Coordinator (EDSC) Program

For CY 2020, the public housing share of reasonable costs of salary, fringe benefits and administrative costs for the EDSC Program is eligible for OpFund subsidies. Only PHAs previously receiving EDSC funding are eligible. Eligibility is posted on the CY 2020 Operating Fund Processing webpage.

Total EDSC eligibility increases annually up to the amount of the annual inflation factor in the Form HUD-52723, Section 3, Part A, Line 02. Eligible PHAs enter the eligibility amount in the Form HUD-52723, Section 3, Part A, Line 07. This "Self-sufficiency" line is restricted to the EDSC program and does not include Resident Opportunity and Self-Sufficiency (ROSS) funding.

If a PHA's public housing inventory (i.e., number of units in IMS/PIC – subject to the ACC) decreases (e.g., due to Rental Assistance Demonstration (RAD) conversion), the PHA's EDSC (funded as an Operating Fund add-on) decreases proportionately.

7. Energy Loan Amortization for Energy Performance Contracts

With a HUD-approved Energy Performance Contract (EPC), a PHA may qualify for certain incentives under the OpFund formula described in 24 CFR 990.185. Pursuant to 24 CFR 990.190(b), a PHA with a HUD-approved EPC for the "Add-on" incentive, is eligible for Energy Loan Amortization. Copies of EPC approval letters (and amended versions) must be retained by the PHA and FO for the life of the EPC. Moving to Work (MTW) PHAs with self-approval authority in their Standard MTW Agreement submit a request to their FO describing the type and term of EPC benefits claimed, and a list of developments for which the benefits are claimed.

8. Funding for Resident Participation Activities

Pursuant to 24 CFR 990.190(e), PHA OpFund calculations include \$25 per occupied unit per year for resident participation activities, including but not limited to those described in 24 CFR 964. A unit is eligible to receive resident participation funding if it is occupied by a public housing resident or it is occupied by a non-assisted PHA employee, or 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 is adjusted accordingly.

13. Environmental Requirements

As noted in the Operating Fund rule at 24 CFR 990.116, environmental review procedures of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) and implementing regulations at 24 CFR parts 50 and 58 are applicable to the Operating Fund Program.

14. Moving to Work PHAs With an Alternative OpFund Grant Formula Agreement (Attachment A)

MTW PHAs with an alternative Operating Fund formula agreement submit requests for Op Fund subsidies in accordance with their MTW Agreements – Attachment A. In cases where this involves submitting one request on a PHA-level, PHAs must submit the following to their Field Offices:

- A. Form HUD-52723: Enter data in accordance with the MTW, which generally includes entries for Section 1; Section 3, Part C, Lines 01 and 04; and Part D, Lines 01 and 03.
- B. Form HUD-52722 is not submitted.
- C. Provide documentation to the FO supporting the agreement's formula (PHAs' calculation workbook of 2020 Op Fund Grant, which must include unit months data for the reporting period, Add-Ons subsidies, non-utilities and utilities subsidies, RAD converted units – RAD adjustment (if any) as referenced in Attachment A of the MTW Agreement. Supporting documentation must be with the submission of the Form HUD-52723 to the FO by scheduled deadline.

MTW PHAs not submitting one form will have their electronic form pre-populated in the same manner as regular formula PHAs and shall complete and submit all sections of the Form HUD-52723 and the Form HUD-52722 on a project-level basis in the same manner as regular formula PHAs.

15. The General Depository Agreement (GDA) – form HUD-51999

In accordance with U.S. Treasury requirements and 2 CFR part 200, PHAs are subject to various cash management requirements. When PHAs enter into depository agreements with financial institutions for accounts holding public housing funds such as Operating Fund grants, Program Income, and disposition proceeds (PHA deposits), PHAs are required to have a GDA with the financial institution that establishes the terms and conditions dictating the investment, and collateral and securitization requirements for the PHAs deposits. The GDA ensures that all of the PHA's deposits or funds otherwise associated with public housing for purposes of public housing, remain available for their required purpose. This is accomplished by requiring such financial grant assistance to be deposited into interest-bearing accounts at financial institutions whose deposits and accounts are insured by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Share Insurance Fund (NCUSIF). Moreover, whenever those PHA deposits exceed the insured limits, the GDA requires those PHA deposits to be fully and continuously collateralized with Treasury approved investments. HUD generally does not approve modifications to the GDA, but if a PHA wants to request approval to modify or add an addendum to the GDA, it must request a HUD waiver under 24 CFR 5.110 and follow the usual HUD regulatory waiver process detailed in PIH Notice 2018-19 issued September 28, 2018.

16. Appeals

- A. Types of Appeals. 24 CFR 990.245 establishes four types of appeals:
 - 1. Streamlined appeal: Requires the PHA to demonstrate a blatant and objective flaw in the application of a specific OpFund formula component.

2. Appeal for changing market conditions: A PHA may appeal to receive OpFund grant for vacant units due to changing market conditions after the PHA undertakes aggressive marketing and outreach measures to rent these units. The vacancies cannot be the result of action or inaction by PHA management. For example, a PHA located in an area suffering economic dislocations. While normal economic cycles may increase the number of low-income households in an area and increase demand for public housing, severe economic dislocation might lead to population loss significant enough to cause a shortage of applicants, even with aggressive marketing and outreach.

The other two types of appeals are limited to PEL-related issues. The PEL is a pre-populated formula data that cannot be edited by PIH FOs or PHAs (see Table 1 on Page 4). However, a PHA may appeal a pre-populated PEL based on (a) effects of specific local conditions, and (b) actual project cost data.

3. Appeal for specific local conditions: This appeal requires the PHA to demonstrate that the model generated PEL fails to reflect specific local conditions. To be eligible, the affected PHA must demonstrate, using an independent cost assessment, that the model generated PEL is not accurate for comparable properties in the PHA's market area, with a variance of ten percent (10%) or greater. The cost of services for the independent cost assessment is paid by the appellant PHA.
4. 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 24 CFR 990 Subpart H, for a period of at least two years. For this type of appeal, the PHA also submits an independent cost assessment.

Notwithstanding the foregoing, nothing in this notice is meant to prevent a PHA from corresponding with the Director of the Office of Public Housing, Director of Financial Management Division, their respective FO Director, or other PIH staff, if appropriate, regarding any issues or concerns regarding notice implementation and OpFund grant eligibility.

Note the appeal of formula income for economic hardship is no longer applicable since the frozen formula income provisions of 24 CFR 990.245(b) expired at the end of 2009.

B. Appeal Requirements

Pursuant to 24 CFR 990.240, appeals are voluntary and cover the PHA's entire portfolio, not single projects. The Assistant Secretary for Public and Indian Housing has the discretion to accept appeals that are less than an entire portfolio for PHAs with greater than 5,000 public housing units. All other appeals must be based on an impact that affects the entire PHA, not an impact to a single project or set of projects, and any appeals that address single projects and not the entire portfolio will be denied.

For “specific local conditions” appeals and “substitute actual project cost data” appeals, the PHA is to acquire, at its own expense, an independent cost assessment comparing costs for comparable affordable housing properties to the costs for each public housing project for the PHA, and its public housing portfolio in total, considering its OpFund grant formula eligibility. The person performing the assessment must have appropriate knowledge of multifamily operating costs within the local market. The independent cost assessment should include:

1. **Comparable Data:** Cited data must be verifiable by HUD with complete source identification. Itemized comparative data must include locality, occupancy type, building type, expenses, and PELs. (Refer to Public and Indian Housing *IMS/PIC Development Submodule User Manual*, pages 4-7, for definitions of building types).
2. **Adjustments:** Assessments must fully disclose any adjustments made to the comparative data, including the nature of the adjustment, the reason for the adjustment, the adjustment method and citation of source documents.
3. **Reporting:** Assessments must present the entire PHA’s portfolio in a table format and include the following for each individual project:
 - a. Number of units
 - b. Occupancy type
 - c. Building type
 - d. Current PEL
 - e. Appellant’s suggested PEL
4. For “actual project cost data” appeals the PHA must also submit actual project cost data derived from actual asset management as outlined in regulations at 24 CFR subpart H for a period of at least two years.
5. For “streamlined” appeals, the PHA must describe the flaw and submit supporting documentation. For “local conditions” and “actual project cost data” appeals, the PHA must include the independent cost assessment with its submission.

C. Appeal Processing Requirements for CY 2020

PHA appeals for “changing market conditions” are to be submitted to the PIH Director and staff point of contact at the appropriate FO no later than the deadline for the PHA to submit its original OpFund grant submission for CY 2020.

“Streamlined,” “local conditions,” and “actual project cost data” appeals must be sent by email to William.G.Jones@hud.gov and Kevin.J.Gallagher@hud.gov with the subject line “Appeal under 24 CFR 990.245.” These Appeals must be sent within 60 days of the PHA’s initial submission of the CY 2020 Form HUD-52722 and Form HUD-52723 to the appropriate FO. The PHA also must provide a copy of the appeal to the PIH FO Director of Public Housing, and the staff point of contact. New projects can submit an appeal at any time up to twelve months after their OpFund grant tools are posted on the web.

Final appeal decisions will be issued no later than 30 days prior to the revisions deadline. If a PEL appeal is granted, HUD will deploy new Excel tools to the Operating Fund Processing webpage. The PHA must then submit the revised Form HUD-52722 and Form HUD-52723 to the Field Office by the revisions deadline. After the Excel tool is processed, HUD will adjust the PHA’s OpFund Grant by the appropriate amount, which will be retroactive to the beginning of the year.

17. Rental Assistance Demonstration (RAD)

A. Funding

For units that convert through RAD for the remainder of the first Calendar Year (i.e., the ‘Initial Year’) in which a Housing Assistance Payment (HAP) contract is effective, OpFund Grants will be obligated to the PHA for the Covered Project based on the Operating Fund eligibility calculated as it normally is, without regard to the converted units.^[1] PHAs must submit Form HUD-52722 and Form HUD-52723 and follow the normal Operating Fund process (including revisions where corrections are needed) for the project for the Calendar Year in which the HAP contract becomes effective². The amount of Operating Funds that can be used for HAP payments during the Initial Year is capped at HUD’s obligations of Operating Fund to the project for the remainder of the year of conversion, pro-rated by the portion of units in the development that are converting and will be removed from IMS/PIC. In the year after the HAP effective date², the converted units shall not receive any further Operating Fund.

When a unit is approved but not removed via Section 18 and subsequently converts through RAD, the unit will be identified as approved for removal via Section 18 until it converts through RAD. Such units must be transferred to the RAD application in IMS/PIC immediately before the conversion occurs.

For partial conversions, the rolling base should be adjusted in the Operating Fund submission the year after the HAP effective date. Please see the instructions to the Form

¹ For example, a RAD closing on December 10 will result in a HAP Contract that is effective on January 1 or February 1. For

the remainder of the Calendar Year which includes the January 1 or February 1 date, this action will not impact public housing

² HAP effective date is the day on which HAP payments begin.

HUD-52722 (available on the CY 2020 OpFund Grant Processing webpage, and via HUDCLIPS) for details on adjusting the rolling base.

Projects/units with HAP effective dates in 2019 or before are not eligible for CY 2020 Operating Funds. The following applies to RAD conversions with HAP effective dates in 2019 or before:

- Projects that are fully converted through RAD, with HAP effective dates in 2019 or before, are not eligible for 2020 Operating Fund.
- Projects that are fully converted with HAP effective dates in 2019 or before, if the conversion happened early in 2019, HUD should not deploy an Excel tool for 2020 for the project. However, if the conversion happened late in 2019, HUD may deploy an Excel tool and/or fund the project in error because of the timing of data availability. If an Excel tool is deployed for a project for 2020, but that project fully converted and has a 2019 HAP effective date, the PHA should not submit the Excel tool. If such project is funded in 2020, the PHA should not draw down funds and should notify their FO that the project should not have been funded.
- Projects that are partially converted with HAP effective dates in 2019 or before, the PHA and FO must ensure that no eligible unit months (EUMs) for units that converted through RAD, are included in the Excel tools. For projects that close early in the year prior to the funding year, HUD will remove EUMs from the RAD units from Section 2 of the Form HUD-52723. However, in all instances, the FO and PHA must ensure that the EUMs from converted units are removed.

B. Designation of Units Converting through RAD as Vacant for Modernization

Units in a project with a commitment to execute a HAP approval, which the PHA plans to modernize and are vacant because a PHA has not reoccupied them in preparation for modernization pursuant to a RAD conversion plan, can be considered as “units undergoing modernization,” provided they comply with 24 CFR 990.145. Such vacant units may be categorized as undergoing modernization for a maximum of two years (24 months) prior to RAD conversion (i.e., HAP effective date). To receive such designation, the units must be approved by the FO, and the unit status correctly reflected in IMS/PIC. Furthermore, the RAD conversion and planned modernization must be in: (i) a HUD approved PHA Annual Plan for non-qualified PHAs (24 CFR Part 903); (ii) a HUD approved Capital Fund Program 5-Year Action Plan for qualified PHAs (24 CFR Part 903) (if no Capital Funds are being used as part of the modernization, a narrative description of the work, including the projected start and completion date, should be included in the capital improvements section of the Plan); or (iii) a HUD approved Capital Fund Program 5-Year Action Plan (24 CFR 905.300) if Capital Funds are being used for modernization. Vacant units converting through RAD that will not be modernized are not eligible to be categorized as units undergoing modernization. PHAs are reminded they may not contribute public housing program funds to projects post-RAD conversion unless those funds have been identified in the RAD Conversion Commitment (RCC) and converted at Closing for Section 8 RAD purposes.

18. Turnkey III Projects

Form HUD-53087 requests are accepted only for projects transitioning out of the Turnkey III Program, and where supporting documentation has been provided including ACC and active lease purchase agreements. A PHA needs to provide the status of the properties with respect to the following:

- Are units still occupied by a family under an option to purchase under a homeownership agreement?
- What is the remaining term of the agreement?

If there is no effective contract with the residents and the PHA is under the Faircloth limit, the PHA may apply under the 24 CFR Part 905 acquisition development method to make these properties public housing rental units. These units will otherwise be ineligible for Operating Fund program funding as Turnkey III units. Once the units are transitioned to regular public housing units, the PHA should ensure that these units' IMS/PIC program type is changed to "Low Rent". The submission deadline for Turnkey projects is the same as the initial submission of the Form HUD-52723 and Form HUD-52722. Turnkey submissions after the deadline will not be accepted and projects will be ineligible for funding that year.

19. EnVision Center Participation

HUD EnVision Centers provide communities with a centralized hub for support in economic empowerment, educational advancement, health/wellness, as well as character and leadership. Through results-driven partnerships with federal agencies, state and local governments, non-profits, faith-based organizations, corporations, public housing authorities (PHAs), tribal designated housing entities (TDHEs) and housing finance agencies, HUD Envision Centers leverage public and private resources to help individuals and families living in HUD-assisted housing climb the ladder of opportunity.

EnVision Center Participation for the predominant use by public housing residents can be assisted with OpFund Grants and reported in Section 2, Line 06 of the form HUD-52723. The space allocated for the center will be classified as one of the HUD-approved vacant units used for resident services, resident organization offices, and related activities such as self-sufficiency and anti-crime initiatives pursuant to 24 CFR 990.145(a)(2). Field Offices should use the following guidance as a reasonable standard for HUD approval of special use units (form HUD-52723, Section 2, Line 06):

- Generally, PHAs may receive approval for up to two special use units (e.g., one resident organization office and one self-sufficiency unit) for every 100 PHA units
- The units must be predominantly benefit of the public housing residents
- Units for resident amenities, such as laundry facilities, are not includable
- The PHA must maintain specific documentation of the units covered
- FOs may not approve units as special use units for more than three years at a time

20. The Faircloth Limit

Section 9(g)(3) of the Housing Act of 1937 ("Faircloth Amendment") limits the number of public housing units that may receive public housing funding. The Faircloth Amendment stipulates that the Department cannot fund the construction or operation of new public housing units with Capital or Operating Funds if the construction of those units would result in a net increase in the number of units the PHA owned, assisted or operated as of October 1, 1999. This requirement is referred to as the "Faircloth Limit." The Faircloth Limit is adjusted for PHA transfers of units under ACC, consolidations, and RAD removals. PHAs will not be funded for those units that exceed the posted Faircloth limit, and are responsible for reviewing the Faircloth limits and notifying HUD if they believe their posted Faircloth Limit is in error.

The Faircloth Limit is determined by PIH's Office of Capital Improvements. (See Notice PIH-2011-69.) Additional information on how the Office of Capital Improvements determines the Faircloth limit, can be found on the Capital Fund website at:

https://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/p/h/capfund

Because the Operating Fund is calculated on an Eligible Unit Month (EUM) basis, the Faircloth Limit is converted to unit months attributable to a Funding Year (the Faircloth Unit Month Limit) before being posted on the Operating Fund webpage. Where the sum of unit months (Form HUD-52723 Section 2, Column A, Line 15 minus Line 4) for all of a PHA's projects exceeds the Faircloth Unit Month Limit, the excess units must be removed from the PHA's Operating Fund Forms.

In the absence of a IMS/PIC ticket, which corrects the Faircloth violation, removal of excess units shall be accomplished by reducing Line 1 and Line 3 in Columns A, B, and C of Section 2, Form HUD-52723, beginning with the newest project added to inventory. If the total number of unit months in the newest projects is less than the excess units, Line 1 and Line 3 of the next newest project added to inventory shall be reduced in the same manner, until no excess units remain. If a IMS/PIC ticket exists that will correct the Faircloth violation, the unit status in the Form HUD-52723 should be updated to align with the IMS/PIC ticket. Likewise, if IMS/PIC has already been updated, the unit status in the Form HUD-52723 should be updated to align with the updated IMS/PIC data.

It is important to note that appropriate adjustments need to be made to the Form HUD-52722 whenever units are being reduced from the Form HUD-52723. The EUMs on the Form HUD-52722 will need to be updated accordingly.

21. PHA Board Resolution

The PHA Board Resolution (the form HUD-52574) approving the PHA's operating budget must be submitted to the appropriate FO prior to the beginning of the PHA's fiscal year. Only one Board Resolution needs to be submitted per PHA, regardless of the number of projects. If the PHA has more than one project, insert the phrase "for all projects" in the first checkbox

description. The checkbox then will read “Operating Budget for all projects approved by Board resolution on: (date).”

22. Record Retention

HUD regulation at 24 CFR 990.325 requires PHAs to retain 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. However, guidance in the Office of Management and Budget (OMB) super circular—2 CFR 200.333(b)—allows Federal agencies (including HUD) to extend the record-retention period for non-Federal entities, if this is done in writing. Therefore, HUD reserves the right to extend the record-retention period beyond five fiscal years and will notify PHAs in writing when such extensions are warranted.

23. Further Information

All questions from PHAs are to be referred to the appropriate FO.

24. Paperwork Reduction Act

The information collection requirements contained in this notice have been approved by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C.3520) and assigned OMB approval numbers 2577-0026, 2577-0029, 2577-0157 and 2577-0246. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB number.

25. Penalty for False Claims and Statements

HUD will seek civil, criminal, or administrative action against individual and entities who either make, present, submit, or cause to be submitted a false, fictitious, or fraudulent statement, representation, or certification. 18 U.S.C. §§ 287, 1001, 1010, 1012, 1014 and 31 U.S.C. §§ 3729, 3802.

/s/
R. Hunter Kurtz
Assistant Secretary
for Public and Indian Housing