



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

OFFICE OF PUBLIC AND INDIAN HOUSING

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**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-2020-16**

Issued: July 28, 2020

This notice remains in effect until amended, superseded, or rescinded

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**Subject:** Implementation of Public Housing Operating Fund Shortfall Funding from Federal Fiscal Year (FFY) 2020 Appropriations

**1. Purpose**

This notice implements a provision in the FFY 2020 Further Consolidated Appropriations Act (Public Law 116-94), referred to hereafter as “the Act,” which provides for a \$25 million set-aside of Public Housing Operating Funds to assist Public Housing Agencies (PHAs) experiencing financial insolvency. Specifically, this notice provides guidance regarding eligibility, the process for applying, and other requirements for the set-aside.

**2. Background**

The Act states:

“...\$25 million shall be available to the Secretary to allocate pursuant to a need-based application process notwithstanding section 203 of this title and not subject to the Operating Fund formula at part 990 of title 24, Code of Federal Regulations to public housing agencies that experience financial insolvency, as determined by the Secretary: *Provided further*, That after all such insolvency needs are met, the Secretary may distribute any remaining funds to all public housing agencies on a pro-rata basis pursuant to the Operating Fund formula at part 990 of title 24, Code of Federal Regulations.”

Additionally, the Senate Appropriations Committee Report (S. 116-109) provided further guidance to HUD related to the distribution of such funds. Specifically, the report stipulates:

“the Committee has included funding this fiscal year to mitigate the risk of financial insolvency among PHAs. The Committee directs that the allocation of these funds shall first be prioritized to PHAs with 249 or fewer public housing units that are determined to be insolvent and have less than 1-month of reserves before allocating funds to larger

PHAs. The Committee prioritizes very small and small PHAs for these funds given that these PHAs comprise over 75 percent of all PHAs and are unlikely to be able to avail themselves of other mitigation strategies relative to larger PHAs. The Committee recognizes that financial reporting is not static and that PHAs in special circumstances, such as those undergoing Rental Assistance Demonstration [RAD] conversions or utilizing fungibility authority, are subject to temporary fluctuations in operating expenses. Therefore, the Committee directs HUD to take these special circumstances into account in their assessment of insolvent PHAs and allocation of funding.”

### **3. Applicability**

This notice applies to PHAs administering the Public Housing program including PHAs participating in the Moving to Work (MTW) Demonstration. For the purpose of this notice, HUD defines very-small PHAs as those with fewer than 50 public housing units, and small PHAs as those with fewer than 250 public housing units, but at least 50 public housing units. Non-small PHAs are defined as those with 250 units or more. All data used to make eligibility determinations, including Public and Indian Housing Information Center (PIC) and Financial Data Schedule (FDS) data, will be based upon the data as it existed in PIC and FDS on July 20, 2020.

### **4. Definition of Insolvency and Eligibility for Funding**

#### *Insolvency and Eligibility*

HUD has several metrics it uses to define and measure financial health within the public housing program. For example, when measuring financial health through the Public Housing Assessment System (PHAS), HUD examines a PHA’s Quick Ratio (a measure of liquidity) and Months Expendable Net Assets Ratio (a measure of the adequacy of reserves). More recently, HUD has undertaken an effort to expand the metrics it uses and has added indicators such as the current ratio and adjusted net equity.

For the purposes of this Notice, HUD has defined financial insolvency to include PHAs experiencing current insolvency or near insolvency, based on their operating reserves. A PHA that has less than the equivalent of one month of operating expenses held in reserve is experiencing current insolvency. A PHA with one month or more but less than two months of reserves is experiencing near insolvency. HUD believes that assisting PHAs in increasing their operating reserves up to two months will have the greatest impact on stabilizing the PHA’s financial position for those PHAs experiencing insolvency. Therefore, for the purpose of this set-aside and subject to the additional conditions noted below, any PHA that has fewer than two months of operating expenses held in reserve (Months of Operating Reserve, or MOR) will be eligible to receive Shortfall funding. The amount of funding that a PHA is eligible to receive under this set-aside is equal to the difference between the PHA’s MOR based on the Financial Data Schedule (FDS) for the PHA fiscal year end identified below, and the amount that is equal to 2 months of MOR for that PHA, as described below.

#### *Operating Reserves and MOR*

HUD defines public housing Operating Reserves as the amount of current assets that are available in the Public Housing program reported in the PHA’s FDS after subtracting liabilities due within the next year (i.e., current liabilities). HUD will determine the amount of a PHA’s Operating Reserves from the public housing projects reported in the FDS.

The following tables detail the specific line items from the FDS that HUD will use to determine Operating Reserve levels, as well as the calculation of monthly operating expenses.

<b>Operating Reserves = (Total Restricted &amp; Unrestricted Assets) – Total Current Liabilities</b>	
<b>Total Restricted &amp; Unrestricted Assets</b> <i>(sum of)</i>	<b>Total Current Liabilities</b> <i>(difference of)</i>
Cash: Unrestricted (ITEM_111)	Total Current Liabilities (ITEM_310)
Cash: Tenant Security Deposits (ITEM_114)	Current Portion Long Term Debt: Capital Projects (ITEM_343)
Cash: Restricted Payment of Current Liabilities (ITEM_115)	
Total Receivables (ITEM_120)	
Investments: Unrestricted (ITEM_131)	
Investments: Restricted for Payment Current Liability (ITEM_135)	
Prepaid Expenses and Other Assets (ITEM_142)	
Inter-program: Due From (ITEM_144)	
Assets Held for Sale (ITEM_145)	
Operating Funds or Operating Reserves Used to Capitalize a RAD Development Project pursuant to this Notice	

<b>Months of Reserves (MOR) = Operating Reserves / Monthly Expense</b>	
<b>Operating Reserves</b>	<b>Monthly Expense</b>
Total Restricted & Unrestricted Assets	Total Operating Expenses (ITEM_96900)
<i>(minus)</i>	<i>(divided by)</i>
Total Current Liabilities	Number of months in FDS

HUD will calculate the Operating Reserves for each PHA based on the PHA’s FDS submission for the following Fiscal Year End (FYE) dates:

- December 31, 2018
- March 31, 2019
- June 30, 2019
- September 30, 2019

The information to calculate the Operating Reserves will be taken from the PHA’s approved audited financial submissions as of the date shown above. If an approved audited financial submission is not available HUD will use the approved unaudited data. If no approved data exists for the PHA, the PHA will not be eligible for funding under this set-aside. Further, PHAs that have closed out their public housing program, and PHAs that have submitted requests to close out their public housing programs as of the date HUD pulled such data from PIC will not be eligible to receive Shortfall funding. PHAs that are not eligible to receive Operating Funds in 2020 will not be eligible to receive Shortfall funding.

## **5. Eligibility of PHAs Participating in the MTW or Rental Assistance Demonstration**

In making eligibility determinations, HUD will take into consideration temporary fluctuations in operating expenses of PHAs participating in the MTW Demonstration and the Rental Assistance Demonstration (RAD). If PHAs have utilized Operating Funds or Operating Reserves to support activities other than those described in Section 9(e) of the U.S. Housing Act of 1937 and have reduced Operating Reserve levels due to the use of funds for non-public housing purposes, such PHAs may not be eligible for Shortfall funding. The information below describes HUD’s methodology for determining whether PHAs have utilized Operating Funds or Operating Reserves to support participation in one of these demonstrations to the extent that they may not be eligible for Shortfall funding under this notice.

*MTW PHAs*

PHAs participating in the MTW Demonstration are generally eligible to receive funding under this set-aside provided they have not utilized their MTW funding flexibility in a manner that reduced the Operating Reserves held in their Public Housing Program. To make this determination, HUD has reviewed the most recent five years of approved audited/unaudited financial statements from each MTW PHA, calculating the net funds transferred into or out of the Public Housing Program. If the funds transferred into the Public Housing Program are less than the total amount of grant revenue reported in, then the PHA will not be eligible for funding.

<b>Total Amount of Grant Revenue Reported In = Total Public Housing Subsidy + Total Capital Fund Grant Revenue</b>	
<b>Total Public Housing Subsidy</b> ( <i>sum of the most recent 5 years of approved audited/unaudited financial statements</i> )	<b>Total Capital Fund Grant Revenue</b> ( <i>sum of the most recent 5 years of approved audited/unaudited financial statements</i> )
<ul style="list-style-type: none"> <li>• Line 70600 (HUD PHA Operating Grants) of Column 14.OPS MTW Demonstration Program for Public Housing</li> </ul>	<ul style="list-style-type: none"> <li>• Line 70610 (Capital Grants) of Column 14.CFP MTW Demonstration Program for Capital Fund</li> </ul>
	<ul style="list-style-type: none"> <li>• Line 70600 (HUD PHA Operating Grants) of Column 14.CFP MTW Demonstration Program for Capital Fund</li> </ul>

<b>Net Transferred Funds = Funds Transferred into Public Housing Program - Total Amount of Grant Revenue Reported In</b>	
<b>Total Amount of Grant Revenue Reported In</b> ( <i>sum of the most recent 5 years of approved audited/unaudited financial statements</i> )	<b>Funds Transferred into Public Housing Program</b>
Total Public Housing Subsidy ( <i>and</i> ) Total Capital Fund Grant Revenue	Line 10010 (Operating Transfer In) of Column Project Total

*Rental Assistance Demonstration PHAs*

PHAs that have converted public housing properties to either project-based rental assistance or project-based vouchers through the Rental Assistance Demonstration (RAD) may be eligible for Shortfall funding under this set-aside depending on the amount of Operating Funds or Operating Reserves the PHA utilized as part of a RAD conversion that had a closing after 9/30/2017. Specifically, for PHAs that are initially eligible for Shortfall funding based on the calculation described in Section 4 of this notice, HUD will determine whether these PHAs utilized Operating Funds or Operating Reserves for RAD conversions with closing dates within the two year period ending on 9/30/2019. If a PHA did not utilize such funds to capitalize RAD transactions, no

adjustments to determine shortfall eligibility will be made to their reserve calculation. If, however, a PHA did utilize such funds to capitalize a RAD transaction, an adjustment will be made to the PHA's Operating Reserve amount for the purpose of determining shortfall eligibility. The adjustment is calculated by taking the difference between the reserves per unit used in the RAD transaction and the reserves per unit in the PHA's Public Housing program immediately prior to the RAD closing date, multiplied by the number of units used in the RAD transaction. HUD will use the higher of this adjustment calculation or zero for the RAD adjustment.

After calculating an adjusted reserve amount, HUD will then determine whether the PHA remains eligible for Shortfall funding, and the amount of that eligibility. HUD will source all such information from data provided to HUD by PHAs through both the FDS and the RAD program.

## **6. Process for Applying for Shortfall Funding**

HUD is providing a simplified process to expedite distribution of Shortfall funding to PHAs experiencing shortfalls.

### *HUD List of Eligible PHAs*

HUD has already completed the calculations described in Sections 4 and 5 of this notice, and a list of eligible PHAs, and the amount those PHAs are eligible to receive is published at:

[https://www.hud.gov/program\\_offices/public\\_indian\\_housing/programs/ph/am/opfund/shortfall\\_funding](https://www.hud.gov/program_offices/public_indian_housing/programs/ph/am/opfund/shortfall_funding)

Located at this site is a worksheet showing each PHAs eligibility. The site also contains a list of PHAs that are ineligible to receive Shortfall funding, and the reason. Finally, the site also contains a worksheet enumerating the aforementioned analysis of MTW PHAs' use of fungibility.

To ensure that all PHAs are fully informed related to Shortfall funding, upon publication of this Notice HUD will be transmitting information containing the MOR calculation and resulting Shortfall funding eligibility, and any MTW transfer calculation described above to each PHA.

### *Applications for Funding*

PHAs that are included on the list of eligible PHAs described above may apply for Shortfall funding by completing the Shortfall Funding Application found in Appendix A and submitting it via e-mail to [2020ShortfallFunding@hud.gov](mailto:2020ShortfallFunding@hud.gov) no later than midnight (Eastern Time) on August 26, 2020. The application must be submitted by the PHA's Executive Director or other authorized representative and include the PHA's name and PHA code (e.g. CA001); and the contact information for HUD follow-up if necessary. The subject of the e-mail should be labeled "2020 Shortfall Funding Application for [PHA Code]." The e-mail should specify the amount of Shortfall funding requested and match the HUD provided eligibility calculations.

## 7. Appeals of Eligibility or Amount of Funding Due to Errors on the FDS Data

PHAs that believe that the information utilized by HUD to calculate the MOR is inaccurate, or the FDS data itself is inaccurate, may appeal to HUD no later than midnight (Eastern Time) on August 26, 2020. All appeals must be submitted electronically to [2020ShortfallAppeal@hud.gov](mailto:2020ShortfallAppeal@hud.gov) with the subject line “Appeal FY 2020 Shortfall [PHA Code].” HUD will acknowledge receipt of all appeals by e-mail. Upon completion of its review, HUD will notify the PHA by e-mail of its decision. All determinations are final.

A PHA may submit an appeal provided that a successful appeal would reduce its reserve level below two months of operating expenses (making them eligible for Shortfall funding) or otherwise increase the amount of Shortfall funding they are eligible to receive.

Notwithstanding the foregoing, a PHA can always reach out to their HUD Field Office, or to [2020ShortfallAppeal@hud.gov](mailto:2020ShortfallAppeal@hud.gov), any other problems or concerns that may arise in this process.

HUD requires the following documents for all appeals:

- 1) a re-calculation of Operating Reserves assuming the amount of the requested appeal is approved;
- 2) all required documents necessary for HUD to make a determination on the appeal;
- 3) a copy of the approved FDS that contains the error;
- 4) an indication of the corrected entries and financial information;
- 5) for PHAs that will submit an audited financial statement to HUD, a written concurrence from the PHA’s auditor; and
- 6) a signed statement (signed pdf is acceptable) by the PHA’s Executive Director certifying that the submitted information is accurate.

### *Specific Required Documents*

The three most common corrections to the FDS are described below along with additional documentation that HUD requires for each one.

- 1) Incorrect reporting of insurance proceeds. The Annual Contributions Contract (ACC) requires that insurance proceeds be used to restore, reconstruct, or repair damaged or destroyed property. A PHA may appeal if it incorrectly reported insurance proceeds as unrestricted on the FDS but is in fact required to use those proceeds to repair the property. The PHA must submit: (a) the total amount of proceeds; (b) the amount of proceeds used to restore, reconstruct or repair the damaged or destroyed property; (c) information on how the PHA has accounted for the proceeds on the FDS; (d) a statement that the PHA intends to use the funds to repair or rebuild the damaged or destroyed property; and (e) any estimated costs of required repairs that have not yet been incurred.
- 2) Disaster funds. Some PHAs received funds or entered into agreements to repair their public housing units that were damaged in a federal, state or other declared disaster.

Depending on the source of the funding or the program (e.g., Section 901), these assets may have been incorrectly reported in the FDS columns of the public housing projects or should have been reported as restricted (and therefore not included in the PHA's Operating Reserve calculation). PHAs can request to correct their FDS if these funds are misreported (either in the wrong FDS line or in the wrong FDS program). When the agreement is no longer in effect and/or all or a portion of these unspent funds will not be used for repair of the units, these funds do not qualify for an appeal and should be returned to the originating funding source and reported as such on the FDS. The PHA must submit approved plans, agreements, and other related documents which show that the funds are still restricted for and will be used to repair or rebuild public units damaged by a disaster and authorization of the use of operating reserves to fund the repairs. The PHA also needs to describe the type of disaster and the dates on which the damage occurred.

- 3) Non-federal funds. Some PHAs may have received funds or grants from non-federal sources (e.g., state governments, local governments, non-profit organizations, or developer fees) and incorrectly reported those funds on their FDS in the Public Housing program. This may have occurred because the PHA intended to use those funds to support its Public Housing program. When requesting an appeal, a PHA must submit evidence of the receipt of the non-federal source. It must also document that the unspent amount is still being incorrectly included in the Operating Reserves and that the funds were improperly reported under the public housing program.

Following the appeal decision, if eligible, the PHA must apply for Shortfall funding within five business days using the application found in Appendix A of this Notice. If the appeal is approved, the PHA must submit a corrected FDS within 30 days after HUD notifies the PHA that the original FDS submission has been invalidated. If the PHA does not submit its corrected FDS or the submission cannot be approved due to other errors, HUD will deny the appeal, and adjust eligibility for Shortfall funding accordingly. PHAs should be aware that the approval of such appeals may result in the lowering of the PHA's Financial Assessment of Public Housing (FASS-PH) score. PHAs should also be aware that if an unaudited submission is corrected, HUD will not approve the reversal of that correction in the submission of the PHA's audited financial statements.

## **8. Prioritization of Funding**

If the total amount of Shortfall funding for which all PHAs are eligible to receive based on the criteria in this Notice exceeds the total shortfall amount that is available through the Act then HUD will not be able to fund or fully fund every eligible PHA.

Due to the limitation of funds available described above Shortfall funding will be distributed into two tiers to maximize its impact to the PHAs with the greatest need.

HUD will establish two tiers, as identified below:

- 1) Tier 1: PHAs with an MOR under zero
- 2) Tier 2: PHAs with an MOR under two

PHAs in Tier 1 will be funded first. Each PHA in Tier 1 will be assigned an ordinal based on their MOR with a lower MOR receiving a lower ordinal. Each PHA MOR will be funded in successive order starting with the lowest ordinal. PHAs in Tier 1 will be provided sufficient Shortfall funding to cover their negative reserves and raise their MOR to zero.

After the Tier 1 funding is completed PHAs in Tier 2 will receive funding. PHAs in Tier 2 will be sub-divided into three cohorts based on number of units in their PIC data. The cohorts are as follows.

- 1) Very Small PHAs (0 – 49 units)
- 2) Small PHAs (50 - 249 units)
- 3) Non-Small PHAs (over 249 units)

PHAs in Tier 2 will be prioritized by cohort with the smaller unit size cohorts given higher priority. Within each cohort each PHA will be assigned an ordinal based on their MOR with a lower MOR receiving a lower ordinal. Each PHA will be funded in successive order starting with the lowest ordinal. PHAs in Tier 2 will be provided sufficient Shortfall funding to raise their MOR to two. Since PHAs in Tier 1 are a subset of PHAs in Tier 2 some PHAs in Tier 1 will receive funding to raise their MORs above zero.

HUD intends to obligate the full \$25 million set-aside provided in the Act. Therefore, the last PHA to be funded will receive funding equal to the lesser of their eligibility or the remaining balance of the total Shortfall funding once all preceding PHAs have been funded.

## **9. PHA Improvement Plans**

To ensure PHAs that receive Shortfall funding take appropriate steps to ensure long-term financial solvency, HUD will undertake additional monitoring activities of all PHAs that receive funding. Further, for all PHAs that receive Shortfall funding, the award letter will identify actions that the PHA can take to improve their financial performance. The list will not be specific to any PHA, but rather is a list of operational improvements that HUD has historically recommended to insolvent PHAs. Please see the list below.

- Reduce costs/increase revenue.
- Increase program rent revenue by improving occupancy and evaluating rent collection policies and actions.
- Consider selling property/assets in accordance with HUD's disposition regulations.
- Convert properties through a RAD conversion and possibly with Low-Income Housing Tax Credits.
- Reposition capital assets that are beyond their useful life.
- Seek additional financing (e.g., debt, equity, cash flow, forgiveness) through your municipality, finance authority, and housing trust fund.
- Renegotiate contracts with workforce and/or vendors.
- Restructure the agency's organization and staff.



- Evaluate utility consumption and energy policies and consider implementation of energy conservation measures and agreements to reduce energy costs.

PHAs that receive Shortfall funding are required to collaborate with HUD Field Offices to identify specific issues at the PHA and develop a plan identifying actions that the PHA can take to improve their financial performance. The Field Office will document these efforts through the establishment of an improvement plan. Conditioned upon a sufficient level of collaboration from the PHA, HUD will provide the improvement plan to the PHA no later than six months after the date of the grant award. Shortfall funding will be recaptured from PHAs that do not sufficiently collaborate with their Field Office to develop an improvement plan.

For troubled and substandard PHAs that have a previously executed Memorandum of Agreement/Recovery Agreement/Corrective Action Plan, those plans may constitute an improvement plan for the purpose of Shortfall funding grants, if corrective actions around financial solvency are adequately addressed in the agreement/plan. A separate improvement plan may be required if HUD deems appropriate.

## **10. Required Financial Improvement for Access to Funds**

PHAs that receive Shortfall funding may draw down amounts from their grant award as needed, to fund their immediate needs. PHAs will enter their expenditure information into Line of Credit Control System (LOCCS) monthly to validate the expenditure of the funding drawn down. Shortfall funding grants may not be placed into the PHA's Operating Reserves.

PHAs that receive Shortfall funding will have these grant funds placed on automatic review by HUD. Such PHAs will be able to draw down amounts from their approved increments as needed, to fund their immediate needs, based on the PHA meeting the milestones identified below:

- Shortfall funding will be provided in two parts. First, eligible PHAs will receive Tier 1 funding (if applicable) and 50 percent of Tier 2 funding. After meeting the criteria described below, PHAs will then receive the remaining 50 percent of Tier 2 funding.
- Funding provided to Tier 1 PHAs to bring their MOR to zero will not be placed on auto review by HUD and may be drawn down to pay immediate needs upon grant award.
- Tier 2 funding will be placed on auto review by HUD. PHAs will be provided access to the funds in two increments.
  1. Up to 50 percent of the Tier 2 funding amount will be available to PHAs to draw down as needed to pay for immediate needs upon the finalization of the improvement plan required by Section 9 of this Notice
  2. The remaining 50 percent of the Tier 2 funding amount will be made available for PHAs to draw down as needed to pay for immediate needs upon the approval of a submitted FDS (on or after the PHA FYE in which the improvement plan was submitted) demonstrating an MOR of no less than 1.0, after the release of the first increment of Tier 2 funding. Note that, for the last-funded Tier 2 PHA, if that PHA receives only partial funding an alternative requirement will apply. The last funded PHA will have to demonstrate an MOR that is equal to the MOR achieved when adding Tier 1 and the first increment of Tier 2 funding.

In the event that a PHA does not meet the milestones described above related to collaborating on improvements plans and maintaining an adequate MOR, that PHA will be unable to draw down additional funds, even if the above milestones for availability are met. Any funds remaining at the end of the period of performance (see Section 13) will be recaptured.

## 11. Required Forms

SF-424, Application for Federal Assistance: PHAs must submit (via email to the appropriate FO) a signed SF-424—required as part of the government-wide e-grants management initiative. The calendar year (CY) 2020 OpFund Shortfall webpage contains guidance on how to complete the SF-424 and a list of certifications and assurances. Each PHA receiving Shortfall funding shall print, sign, scan, and submit one SF-424 via email to the appropriate FO by August 26, 2020. 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 the Public Housing Financial Management Division’s external web site, here:

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

The following list of certifications and assurances are agreed to by completing the Application for Federal Assistance, SF-424 line 21 which states: “By signing this application, I certify (1) to the statements contained in the list of certifications, and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001).”

### *List of certifications and assurances*

1. Operating Fund Obligation letter assurance - The Shortfall Funding Grant Obligation Letter states that by drawdown of the funds, the PHA confirms compliance with all terms and conditions of the Consolidated Annual Contributions Contract, 24 CFR 990, and 2 CFR 200. A copy of your agency obligation letters can be found at:

[https://www.hud.gov/program\\_offices/public\\_indianhousing/programs/ph/am/opfnd2020](https://www.hud.gov/program_offices/public_indianhousing/programs/ph/am/opfnd2020)

2. Based on the acceptance of Shortfall Funding and PHA submission of HUD-50071, I/We certify under penalty of perjury that the information upon which the Shortfall Funding application is based is true and correct. WARNING: Anyone who knowingly submits a false claim or makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil penalties. (18 U.S.C. §§ 287, 1001, 1010, 1012; 31 U.S.C. §3729, 3802).
3. We/I hereby certify that \_\_\_\_\_ Housing Agency is in compliance with the Federal Fiscal Year (FFY) 2020 Further Consolidated Appropriations Act (P.L. 116-94), HUD regulations at 24 CFR part 990, and Annual Contributions Contract as was in effect on December 31, 2017.

4. The PHA agrees to collaborate with HUD in the development of an improvement plan and to undertake reasonable cost saving or revenue increasing measures to improve its financial condition.
5. Information submitted to HUD systems including but not limited to, the Financial Assessment Subsystem (FASS), Financial Data Schedule (FDS), and PIH Information Center (PIC), used in the computation of the Months of Operating Reserves and Shortfall Eligibility found in this Notice is complete and accurate.
  - a. Further, the information provided via these systems supports the conclusion that the PHA is currently insolvent or near insolvent as defined in this Notice (i.e., MOR of less than 1.0 being currently insolvent, and near insolvent being an MOR of less than 2.0).
6. If submitting an appeal, that the financial documentation and calculations provided by the PHA to support the basis of the appeal are accurate, complete, and truthful.
7. The PHA acknowledges that any funds not drawn down within the period of performance will be recaptured by HUD.
8. The PHA understands that Shortfall funding can only be drawn down from LOCCS to pay for immediate needs.
9. If the PHA is receiving Shortfall funding to raise their MOR above zero, the PHA must maintain an MOR of at least one in an approved FDS submission on or after the creation of the improvement plan. Note that, for the last-funded Tier 2 PHA, if that PHA receives only partial funding an alternative requirement will apply. The last funded PHA will have to demonstrate an MOR that is equal to the MOR achieved when adding Tier 1 and the first increment of Tier 2 funding.

## **12. Eligible Uses of Shortfall Funding**

The funds provided through this Shortfall funding set-aside are provided through the Public Housing Operating Fund account, and are, therefore, subject to the eligible activities listed in Section 9(e) of the U.S. Housing Act of 1937. Non-troubled Small and Very-Small PHAs may use Shortfall funding for Operating Fund and Capital Fund eligible activities as permitted by Section 9(g) of the U.S. Housing Act of 1937. For more information on the requirements related to full flexibility for small PHAs, see Notice PIH 2016-18.

## **13. Period of Performance**

The period of performance for these funds is four years from the end of the funding year for which the funds were appropriated. Any undisbursed funds remaining in LOCCS or unexpended funds held by a PHA on December 31, 2024 shall be recaptured by HUD.

## **14. Accounting Treatment**

Shortfall funding program activity is associated with the PHA's projects and as such must be reported on the FDS at the project level. PHAs are required to report activities funded from the Shortfall program in accordance with generally accepted accounting principles (GAAP).

### **15. LOCCS Reporting**

The PHA is required to report monthly expenditures in LOCCS. The PHA will be able to draw-down an amount of funding from their Shortfall funding grant equal to the total expenditures entered in LOCCS. This process will continue until the expenditures reach 100 percent of the grant amount.

### **16. Further Information**

All questions from PHAs are to be referred to the appropriate Field Office.

### **17. Paperwork Reduction Act**

The information collection requirements contained in this notice have been approved by the Office of Management and Budget (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.

### **18. 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/

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R. Hunter Kurtz  
Assistant Secretary for  
Public and Indian Housing

## Appendix A

### CY 2020 Operating Fund Grant Program - Application for Funds from the \$25 Million Shortfall Funding Set-Aside

#### Public Housing Agency (PHA) Application for Shortfall Funds and PHA Certification of Accuracy and Completeness of Financial Data.

PHA Name: \_\_\_\_\_

PHA Number: \_\_\_\_\_

Executive Director: \_\_\_\_\_

The above referenced agency is applying for Shortfall funds and has submitted accurate and complete financial data to the U.S. Department of Housing and Urban Development (HUD).

Please check Shortfall Scenario 1 or Shortfall Scenario 2 for which your PHA is applying. The application must be signed by the appropriate PHA official.

\_\_\_\_\_ **Shortfall Tier 1:** For PHAs with a Months of Operating Reserves (MOR) ratio less than zero.

I, \_\_\_\_\_, hereby certify to the following:

1. Information submitted to HUD systems including but not limited to, the Financial Assessment Subsystem (FASS), Financial Data Schedule (FDS), and Public Housing Information Center (PIC), used in the computation of the Months of Operating Reserves and Shortfall Eligibility found in this Notice is complete and accurate.
  - a. Further, the information provided via these systems supports the conclusion that the PHA is insolvent or near insolvent as defined in this Notice (i.e., MOR of less than 1.0 being insolvent, and near insolvent being an MOR of less than 2.0).
2. If submitting an appeal, that the financial documentation and calculations provided by the PHA to support the basis of the appeal are accurate, complete, and truthful.
3. The PHA acknowledges that any funds not drawn down and expended within the period of performance will be recaptured by HUD.
4. The PHA understands that Shortfall funding can only be used to pay for immediate needs.
5. The PHA agrees to collaborate with HUD in the development of an improvement plan and to undertake reasonable cost saving or revenue increasing measure to improve its financial condition.

\_\_\_\_\_ **Shortfall Tier 2:** For PHAs with a Months of Operating Reserves (MOR) ratio less than two.

I, \_\_\_\_\_, here by certify to the following:

1. That I will comply with all the requirements listed in Shortfall Scenario 1.
2. If the PHA is receiving Shortfall funding to raise their MOR above zero, the PHA must maintain an MOR of at least one in an approved FDS submission on or after the creation of the improvement plan. Note that, for the last-funded Tier 2 PHA, if that PHA receives only partial funding an alternative requirement will apply. The last funded PHA will have to demonstrate an MOR that is equal to the MOR achieved when adding Tier 1 and the first increment of Tier 2 funding.

Certification: I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. 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. 3279, 3802)

\_\_\_\_\_  
Signature of Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
PHA Contact Name

\_\_\_\_\_  
Phone Number