



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-2020-07

Issued: April 28, 2020

Expires: This notice remains in effect until amended, superseded or rescinded.

Subject: Implementation of Supplemental Guidance to the Federal Fiscal Year 2020 Operating Fund Appropriations

1. Purpose

This Notice provides guidance on the allocation and eligible uses of the Supplemental Public Housing Operating funding provided pursuant to the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (Public Law 116-136), as well as the additional flexibilities provided pursuant to the CARES Act to use previously appropriated Capital and Operating Funds to enable public housing agencies (PHAs) to prevent, prepare for, and respond to coronavirus.

2. Background

The CARES Act provided an additional \$685,000,000 for the Public Housing Operating Fund to “prevent, prepare for, and respond to coronavirus, including to provide additional funds for public housing agencies to maintain normal operations and take other necessary actions during the period that the program is impacted by coronavirus.”

Further, the CARES Act requires that such supplemental Operating Funds shall be distributed to PHAs in accordance with the Operating Fund formula found at 24 Code of Federal Regulations (CFR) Part 990. The funds may be used for eligible activities under the Operating Fund and the Capital Fund (Subsections (d)(1) and (e)(1) of Section 9 of the United States Housing Act of 1937 (1937 Act)) during the period the program is impacted by coronavirus, and other expenses related to preventing, preparing for, and responding to coronavirus, including activities to:

- (i) support or maintain the health and safety of assisted individuals and families; and
- (ii) support education and childcare for impacted families.

Amounts previously made available by formula under the Operating Fund and Capital Fund programs in prior Acts, except for set-asides for specific activities (e.g., emergency and natural disaster, safety and security, lead-based paint and other housing-related hazards, such as carbon monoxide reduction), may be used for the purposes described above through December 31, 2020, unless this time period is extended by the Secretary.

Additionally, this Notice articulates the authority of the CARES Act as well as the Secretary's finding that the waivers and alternative requirements discussed below are necessary for the safe and effective administration of the Public Housing program, consistent with the purposes described under the CARES Act, to prevent, prepare for, and respond to coronavirus. See Notice PIH 2020-05 for more information on the waiver authority provided through the CARES Act.

PHAs are required to keep written documentation that record which waivers the PHA applied to their programs and the effective dates. A PHA does not need to notify HUD or receive HUD approval to begin utilizing these waivers/alternative requirements. However, HUD may subsequently require the PHA to provide information to HUD on the waivers used by the PHA and the date the PHA applied the waiver to its program.

3. Applicability

This Notice applies to both PHAs administering the Public Housing program and PHAs participating in the Moving to Work (MTW) Demonstration. PHAs will receive funding based upon the Operating Fund formula found at 24 CFR Part 990. MTW PHAs that have an MTW agreement which modifies the Operating Fund formula will receive funding based upon the modified formula. Further, MTW PHAs may exercise their full fungibility authority pursuant to their MTW agreements to support activities to prevent, prepare for, and respond to coronavirus to implement activities that are eligible under Sections 8 and 9 of the 1937 Act, including the expanded eligible uses authorized by the CARES Act, and for such activities in their local, non-traditional programs, as found in Notice PIH-2011-45.

4. Distribution of CARES Act Supplemental Appropriation, Administrative Requirements, and Time Period to Use Supplemental Funds

Obligations of CARES Act Supplemental Operating Fund grant amounts will be calculated based on each project's pro rata Calendar Year (CY) 2020 Operating Fund eligibility at the time HUD obligates the supplemental funds. Changes in project eligibility will be captured as part of the normal Operating Fund process through subsequent obligations from the normal CY 2020 Operating Fund grants.

To effectuate these obligations and pursuant to the waiver authority provided in the CARES Act, HUD hereby waives 24 CFR 990.210, which requires HUD to make payments equal to one-twelfth (1/12) of the total annual Operating Fund under the formula. HUD is also waiving 24 CFR 990.280 (b)(5) to permit PHAs to transfer up to the entire amount of the CARES Act Supplemental Funds between projects without having excess cash. HUD will make the CARES Act Supplemental Operating Fund amounts available to PHAs via a single obligation to a unique grant number, ending with the letter "C." PHAs will be able to draw down the supplemental amounts as needed, to fund eligible immediate needs.

CARES Act Supplemental Operating Funds are subject to all Operating Fund requirements, including 24 CFR Part 990, the CY 2020 Operating Fund Processing Notice (Notice PIH-2020-03), and the Supplement to the HUD Financial Management Handbook (7475.1 REV. CHG-1), in reporting coronavirus-related expenses. HUD is waiving 24 CFR 990.280(b) so that PHAs complying with Asset Management under 24 CFR 990 Subpart H may transfer funds to the Central Office Cost Center (COCC) to pay for immediate needs of the COCC that exceed the safe harbors identified in Chapter 7 of the HUD Financial Management Handbook, in order to cover the additional expenses required to prevent, prepare for, and respond to the coronavirus.

Notwithstanding the above, funds transferred to the COCC in excess of the safe harbors must comply with the cost reasonableness standards found at 2 CFR 200.404, and shall not exceed the safe harbors by more than 50 percent. Funds transferred to the COCC remain CARES Act Supplemental Operating Funds. Unlike regular Operating Funds, Supplemental CARES Act funds may not roll into a PHA's reserves and must be tracked and accounted for separately. PHAs must be able to account for the expenditure of these funds. Accounting and remittance guidance will be forthcoming. During the Period of Performance, HUD is waiving the requirement in 24 CFR 990.280(b)(5) to have excess cash before charging an asset management fee to the projects in the PHA fiscal year that is current as of the date of this Notice.

In accordance with Office of Management and Budget (OMB) Memo M-20-17, HUD is temporarily modifying the requirement for active System for Award Management (SAM) registration in the Operating Fund program. Current registrants in SAM with an active registration expiring before May 16, 2020 will be afforded a one-time extension of 60 days. The CARES Act Supplemental Operating Fund Appropriation will be obligated by HUD prior to May 16, 2020. Therefore, HUD will obligate funds to PHAs with expired SAM registrations, provided they have a Data Universal Number System (DUNS) number. Importantly, PHAs should ensure that they bring their SAM registrations current as soon as feasible, as, after the 60-day extension expires, future obligations of Operating Funds will not be made to PHAs with expired SAM registrations.

The CARES Act appropriations language states that the Supplemental Funding is available "...to prevent, prepare for, and respond to coronavirus, including to provide additional funds for public housing agencies to maintain normal operations and take other necessary actions during the period that the program is impacted by coronavirus." As such, this Notice defines "the period that the program is impacted by coronavirus." HUD is initially defining the time period for which the program is impacted by coronavirus as through December 31, 2020. HUD will continue to evaluate the impact of coronavirus on the public housing program, and, if it determines that the impact to the program will extend beyond December 31, 2020, HUD will issue additional guidance extending the time period for which PHAs may use these funds.

The period of performance, as defined in 2 CFR 200.77, for this grant will end December 31, 2020, unless extended. HUD will consider extending the period of performance for up to twelve months, pursuant to 2 CFR 200.308(d)(2).

The funding provided through this Notice cannot be used for the repayment of debts or any amounts owed to HUD including, but not limited to, Office of Inspector General (OIG), or other monitoring review findings. Additionally, Supplemental Operating Funds provided through this Notice considered for salaries, bonuses, employee incentives, hazard pay, or any other compensation must comply with the executive compensation requirements under Section 220 of Public Law 116-94, Further Consolidated Appropriations Act, 2020, and must comply with reasonable compensation requirements found at 2 CFR 200.430(b).

5. Flexible Use of Funds

As noted above, Supplemental Operating Funds provided through the CARES Act, and Operating Funds and Capital Funds provided through prior Acts, may be used for eligible Operating Fund and Capital Fund activities, or for coronavirus purposes as described in Section 6 of this Notice. The flexibility to use previously appropriated Capital and Operating Funds is available to PHAs beginning on the date of this Notice and extends through December 31, 2020, unless HUD determines that it is necessary to extend the flexibility for PHAs to continue to prevent, prepare for, or respond to coronavirus. References below in this section to “when this authority expires” are referring to this date.

PHAs intending to use Capital Funds for Operating Fund eligible activities generally must follow the current procedure of including an “Operations” Work Activity (Budget Line Item [BLI] 1406) in the Annual Statement/Budget for the Capital Fund grant in the Energy and Performance Information Center (EPIC) system for the grant that will be the source of the funds. With the publication of this Notice, HUD is lifting all limits on PHA use of Capital Funds for Operating Fund purposes and has lifted edit checks in the EPIC system to facilitate this authorization to prevent, prepare for, or respond to coronavirus. When this authority expires on December 31, 2020, previous limits on authorization to expend Capital Funds for Operating Fund purposes will be reinstated. Funds already expended based on this authorization will not be impacted; however, unexpended Capital Funds previously authorized and budgeted to be expended for Operating Funds beyond the reinstated requirements must be re-budgeted to comply with the reinstated requirements.

HUD anticipates that PHAs will encounter higher costs to administer Capital Fund grants because of the substantial challenges of having to do most of the work remotely. To provide accommodation for this possible constraint, HUD is waiving the Administration cost limitation established in 24 CFR 905.314(h) of 10 percent and temporarily resetting it to 15 percent. PHAs remain bound by the requirements of 2 CFR 200.404 that all costs must be reasonable. The increased Administration cost authorization shall remain in effect until December 31, 2020 during the time period that CARES Act flexibility between the Operating Fund and Capital Fund remains in effect. When this authority expires, the previous limitation on Administration cost expenditures will be reinstated. Funds already expended based on this authorization will not be impacted by the reinstatement; however, unexpended Capital Funds previously authorized and budgeted to be expended for Administration costs above the reinstated requirements must be re-budgeted to comply with the reinstated requirements.

In order to expedite the process of making funds available to PHAs, HUD will be suspending the requirement for Field Office approval of Five-Year Action Plans as a prerequisite for creating Annual Statement/Budgets in EPIC and in turn spreading BLIs in LOCCS (i.e., submitted Five-Year Action Plans will be automatically approved). The suspension of the requirement for Field Office approval will go into effect when HUD implements the next release of the EPIC system (currently scheduled for the middle of May). However, Field Offices shall retain the ability and authority to require revision to Five-Year Action Plans after submission if a PHA fails to comply with programmatic requirements as they are modified by this Notice. Further, Field Offices shall retain the ability and authority to suspend grants in LOCCS or to put them on auto review if the PHA is at risk of noncompliance with programmatic requirements.

As described above, PHAs may use Supplemental Operating Funds provided through the CARES Act, and Operating Funds provided through prior Acts for the regular Capital Fund uses described in subsection (d)(1) of Section 9 of the 1937 Act. PHAs that use Operating Funds for capital expenses shall be required to report such expenditures at a time and in a manner to be established by HUD in future guidance as outlined in Section 8 of this Notice.

6. Use of Funds Related to Combatting Coronavirus

The CARES Act provides authority for PHAs to use Supplemental Operating Funds, Operating Funds, and Capital Funds for “expenses related to preventing, preparing for, and responding to coronavirus, including activities to support or maintain the health and safety of assisted individuals and families, and activities to support education and child care for impacted families.” HUD encourages PHAs to balance operational needs with the health, safety and educational needs of assisted families when prioritizing expenditures to combat coronavirus.

The below section identifies potential uses of funds that would prevent, prepare for, or respond to coronavirus, and is not intended to be exhaustive however, the use of such funds may not be duplicative of services provided through other Federally-funded program. While categorized below for ease of use, HUD expects that PHA coronavirus-related expenses may fall within multiple categories simultaneously as they work to combat coronavirus. Some of the expenses listed below, and other expenses PHAs incur related to the coronavirus, may be considered normal operating or capital expenses. PHAs will be expected to be able to identify additional “normal” expenses incurred due to the coronavirus in forthcoming reporting requirements.

- **Preparing for:** CARES Act funds may be used prior to a local coronavirus outbreak to develop processes and procedures, and begin to take actions designed to help keep people healthy, reduce exposure to coronavirus, and slow the spread of the disease, including but not limited to:
 - Creation or update of infectious disease outbreak plan;
 - Sourcing and purchasing personal protective equipment for PHA staff;
 - Coordination with providers of services needed to support residents as a result of coronavirus, including cost of delivery of goods, supplies, and equipment;

- Coordination with local health service providers for activities, including: the development or provision of guidance to staff or residents, travel for testing, or other reasons related to coronavirus;
 - Childcare costs for residents so that they can continue to work, and childcare costs for staff performing essential functions (as defined at the state/local), to the extent they would not have incurred otherwise; and
 - Other reasonable expenses related to preparing for the coronavirus.
- **Preventing:** During a coronavirus local outbreak, PHAs may use funds to prevent the spread of the virus to staff and residents, including but not limited to:
 - Costs related to maintaining adequate social distancing, including modifying or limiting access to communal spaces, increasing service hours to prevent crowding in waiting areas, or any other costs incurred to ensure adequate distance among staff and residents;
 - Costs of delivering supplies so that staff or residents can shelter in place, thereby reducing exposure to the greatest number of people;
 - Direct costs related to limiting the spread of the coronavirus, including travel costs for testing, or other preventive health measures related to coronavirus;
 - Expenses of isolating people suspected of being exposed or those at high-risk of serious complications if infected (e.g., elderly residents, and residents with underlying conditions);
 - Costs of protecting residents (particularly high-risk residents) from exposure from interaction with PHA staff and vice versa;
 - Payment of salaries of PHA staff unable to work because of the coronavirus public health restrictions (e.g., office management staff who cannot go into the office and cannot perform work remotely, or payment of full salaries of PHA staff forced to work part-time because of lack of child care); and
 - Other reasonable expenses related to preventing the coronavirus.
 - **Responding to:** Once coronavirus has spread to staff and/or residents, PHAs may use funds to care for those who have become infected and to limit the exposure and spread of the virus. Funds may continue to be used after a local outbreak for any continuing expenses incurred due to the spread of coronavirus, including but not limited to:
 - Expenses of caring for PHA staff and residents who have tested positive, but do not require immediate hospitalization, including:
 - Payment for increases in sick leave allowances for PHA staff;
 - Physical, personnel, or security costs incurred to limit movement;
 - Costs to safely transport residents that tested positive to a quarantine facility; and
 - Costs of supporting residents in quarantine such as health-related supplies (e.g., masks and cleaning supplies).

- Expenses to safely transport residents/staff in need of medical attention;
- Expenses incurred because of coronavirus restrictions impacting PHA operations (e.g., paying for transportation expenses for PHA staff who rely on public transit that is no longer available);
- Costs to facilitate and coordinate with local schools and local governments receiving funds from the Department of Education for the education of students in public housing households:
 - Internet connection infrastructure; and
 - Tablets or other low-cost computers for students.
- Other reasonable expenses incurred while responding to the coronavirus.

HUD is making available an additional BLI in the Line of Credit Control System (LOCCS) to account for coronavirus-related expenditures from Capital Fund grants: BLI 1509 “Coronavirus.” HUD anticipates that many PHAs will have to shift the use of Capital Funds significantly away from conventional modernization activities to activities specifically designed to prevent, prepare for, and respond to the coronavirus (those described above): these expenditures will be accounted for using BLI 1509 “Coronavirus.”

HUD has also created the following work categories in EPIC under the 1509 BLI:

1. Preparing for Coronavirus (1509)
2. Preventing Coronavirus (1509)
3. Responding to Coronavirus (1509)

HUD will make available specific instructions on how to modify Five-Year Action plans and Annual Statement/Budgets in EPIC to move funds to BLI 1509 in separate guidance.

HUD is not creating subcategories for the above work categories at this time; however, once HUD establishes the reporting requirements for the Operating Fund, there may be a need to create subcategories in EPIC to synchronize the reporting requirements between the Operating Fund and the Capital Fund with respect to the coronavirus eligible activity. If necessary, HUD will establish subcategories in future guidance in conjunction with the publication of guidance on reporting for the Operating Fund.

7. Record Retention

HUD regulations at 24 CFR 990.325 require 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 funds were received. However, 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.

8. Reporting

HUD will develop a process by which PHAs will report all expenditures of CARES Act supplemental funds, and will articulate reporting requirements, to include submission requirements, at a later date. PHAs may also be required to report on the expenditure of the supplemental funds, as well as Operating Funds, program income, and Capital Funds used for coronavirus-related expenses. PHAs should immediately modify their chart of accounts or take other steps as needed to enable themselves to accurately track and report the date and amount of coronavirus-related expenses based on the source of the funding used.

Additional CARES Act Reporting

Section 15011 of the CARES Act requires that recipients of \$150,000 or more of CARES Act funding submit, not later than 10 days after the end of each calendar quarter; a report containing information regarding the amount of funds received; the amount of funds obligated or expended for each project or activity; a detailed list of all such projects or activities, including a description of the project or activity; and detailed information on any subcontracts or subgrants awarded by the recipient. As outlined in the Office of Management and Budget (OMB) memorandum, M-20-21, existing reporting requirements are anticipated to meet the requirements of Section 15011, but the content and format for this reporting is still under development and will need to be reviewed against current program practices. The Department will work in coordination with OMB to ensure that this requirement can be fulfilled by recipients of CARES Act funding in a manner that utilizes to the greatest extent possible existing reporting streams, providing the necessary transparency and accountability with minimal additional burden. If additional reporting is necessary, further guidance will be released by the Department in the near future.

9. Further Information

Questions from PHAs, including specific questions about eligible uses of CARES Act funding, are to be referred to PIH-COVID@HUD.GOV. PHAs with questions about EPIC reporting can contact EPICHelp@HUD.GOV.

10. 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. 3501 *et seq.*) and assigned OMB approval numbers 2577-0026, 2577-0029, 2577-0157, 2577-0274 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.

11. 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 pursuant to 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