



OFFICE OF PUBLIC AND INDIAN HOUSING

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Special Applications Center
77 W. Jackson Blvd., Room 2401
Chicago, Illinois 60604-3507
Phone: (312) 353-6236 Fax: (312) 913-8892

DATE: June 7, 2022

MEMORANDUM FOR: Public Housing Directors, Public Housing Regional Administrators

FROM: Jane B. Hornstein, Director, Special Applications Center (SAC)

SUBJECT: Special Applications Center (SAC) Letter Approvals of Section 18 Disposition Proceeds

On September 9, 2020, HUD published PIH Notice 2020-23 (“Use of Proceeds under Section 18 Disposition or Section 22 Voluntary Conversion”). Section 5 of that Notice provides, in part, that “if, subsequent to HUD approval of the SAC application, the PHA determines a use for net proceeds different from that proposed in the application, then the PHA must ensure, subject to potential HUD enforcement, that the alternate use fully complies with the requirements of section 18(a)(5) of the United States Housing Act of 1937 (1937 Act), 24 CFR 970.19(e), and sections 8 and 9 of that Notice, and that such alternate use is properly documented compliant with 24 CFR 970.35 and section 11 of that Notice.” See [PIH Notice 2020-23](#).

To further clarify HUD’s guidance and programmatic requirements, the SAC’s approval of a disposition application is considered final even if a prior SAC approval letter requires an additional HUD approval for an alternative use of proceeds. This is not to suggest that a PHA’s requirements relative to proceeds upon disposition of public housing assets have been diminished in any way. In all instances of disposition of public housing assets, a PHA must use proceeds for an eligible use pursuant to section 18(a)(5) of the 1937 Act and 24 CFR 970.19(e), as further described in PIH Notice 2020-23. HUD retains the inherent discretion to exercise additional PHA oversight regarding its use of proceeds to ensure that its uses are consistent with of the statutory, regulatory, or Notice requirements. In cases where the use of proceeds was not identified in the application or where there is a change in the use of proceeds and the PHA is concerned the use is not consistent with statutory requirements, the PHA may request HUD guidance. For example, HUD approval may be required if after disposition a PHA is closing out its Section 9 public housing program and has unexpended proceeds and plans to use proceeds for an alternative use than originally approved (i.e., for a Section 8 only use instead of a Section 9 public housing use). See Section 6(I) of PIH Notice 2019-13.

Pursuant to 24 CFR 970.35, HUD may in some circumstances require a PHA to submit additional reporting on their proceeds use. For instance, some Field Offices have required PHAs to submit annual reports on the amount of proceeds when they have both received and expended proceeds in that year. When the Field Office receives questions from PHAs on whether a proposed alternate use of proceeds is an eligible use, the Field Office should consult with its Field Counsel.

When the Field Office receives requests from PHAs requesting that HUD approve their alternative use of proceeds, the Field Office should refer HUD requirements governing the use of proceeds (e.g., the statute, regulations, and applicable notices); and Field Offices can direct PHAs to a copy of this memo, which will be posted on the SAC website.

Pursuant to Section 11 of PIH Notice 2020-23, PHAs must indicate the receipt of proceeds on their financial data schedules (FDS) submitted to HUD. PHAs indicate proceeds as a “restricted” asset on the associated project’s FDS. For projects terminated in IMS/PIC, the PHA indicates proceeds in the “Other Project Column” of the Low Rent Program.

Similarly, PHAs must maintain records on the use of proceeds in accordance with 24 CFR 990.280 and 990.285. Such records may include transferring proceeds from the original project to another permitted project or program. Field Offices should ensure that PHAs are reporting proceeds use to their auditors, in accordance with HUD’s 2020 Compliance Supplement (or subsequent revisions).

If a suspected violation of a PHA’s proceeds use comes to the attention of the Field Office, the Field Office will report such violations through the Deputy Assistant Secretary for Office of Field Operations to the Deputy Assistant Secretary for Public Housing Investments (DAS/OPHI), with a copy of such report to the SAC, so the matter can be investigated, and an enforcement decision can be made.

Please contact SACTA@hud.gov with any questions.