

## **CAPITAL FUND PROCESSING GUIDANCE FOR FY 2022 GRANT AWARDS**

### **Revised as of 11/21/2022**

This notice provides Public Housing Agencies (PHAs) with guidance on the Capital Fund Program (CFP) Award process for Fiscal Year (FY) 2022. The Department of Housing and Urban Development (HUD) will send each PHA receiving Capital Funds an email notifying the PHA of the award of a CFP Grant. PHAs are responsible for maintaining the correct contact information, including the correct email address for the Executive Director, in the Inventory Management System/Public Housing Information (IMS/PIC) system.

### **How will PHAs receive their FY 2022 Capital Fund ACC Amendments?**

HUD will post a master ACC Amendment that has been signed by the Deputy Assistant Secretary (DAS) for the Office Public Housing Investments (OPHI) fulfilling the requirement for a HUD signature on the ACC Amendment.

PIH is following a process similar to the one in effect in FY 2020 where PHAs will download a spreadsheet Master ACC Amendment from the Office of Capital Improvements (OCI) website ([https://www.hud.gov/program\\_offices/public\\_indian\\_housing/programs/ph/capfund](https://www.hud.gov/program_offices/public_indian_housing/programs/ph/capfund)). The PHA will then open the spreadsheet, select the PHA code (causing the spreadsheet to prepopulate the grant specific information in the ACC Amendment) and then sign the ACC Amendment. Unlike previous years, PHAs now have the option to sign with a valid electronic signature. Alternatively, PHAs can print out the ACC Amendment, affix a written signature to it and then scan the signed ACC Amendment. Ultimately PHAs will upload the signed ACC Amendment in a Document Package in the EPIC system as explained later in this processing guidance. Note that PHAs will sign the ACC Amendment with a signature by a person authorized to enter into agreements for the PHA.

- **OCI will obligate the awards in LOCCS up-front.** For PHAs with active Universal Entity Identifiers (UEIs)/TINS, the FY 2022 CFP awards will show up in LOCCS. Note that the Federal Government transitioned from using DUNS numbers to UEIs as of April 1, 2022.
- **PHAs will submit signed ACC Amendments and other required forms electronically in EPIC.** Instructions for how to use the Document Management Center are on the OCI website. EPIC will not allow PHAs to submit an Annual Statement/Budget for the FY 2022 grant (triggering the spread of funds in LOCCS) until the FO has approved the document package in EPIC.

### **What can PHAs do now?**

- PHAs must sign the ACC Amendments and have Board approved if required.
- PHAs without active UEI or TINS numbers should take immediate action to resolve these issues.
- PHAs should submit their 5-Year Action Plan into EPIC covering FY 2022 to be approved the FO office as soon as possible.
  - For PHAs with rolling plans – the years should include FY 2022 -2026

- For PHAs with fixed plans – FY 2022 must be included as one of the years. Please note, the PHA may need to revise its plan to be sure that the work activities it needs to accomplish with FY 2022 funds are in the approved plan
- PHAs should assemble but do **not yet submit** the following documents which will be submitted in EPIC when the CFP grants are uploaded into EPIC:
  - Written Statement Defining Significant Amendment/Modification
  - Lobbying Form - SFLLL
  - Certification of Compliance w/Public Hearing (HUD-50077-ST-HCV-HP for non-qualified PHAs or a statement for qualified PHAs)
  - Certification of Payments to Influence Federal Transactions - Form 50071
  - Civil Rights Certification:
    - If Non-Qualified PHAs, prepare HUD form HUD-50077-ST-HCV-HP
    - If Qualified PHA, prepare HUD form HUD-50077-CR

**Energy and Performance Information Center (EPIC):**

For FY 2022 CFP awards, all PHAs are required to submit a CFP 5-Year Action Plan that covers FY 2022 in EPIC. A 5-Year Action Plan will be either Fixed or Rolling.

***Rolling 5-Year Action Plans:*** Covers a rolling, five-year period. A new plan is created every year and the current year becomes year one of each new rolling plan.

- For example, a PHA with a Rolling Plan is currently operating under a plan covering 2021 through 2025. The PHA would use the copy forward function to create a new CFP 5-Year Action Plan in EPIC. EPIC will automatically create a plan with a starting year of 2022, and the PHA will create and/or edit information on work activities for 2022 through 2026.

***Fixed 5-Year Action Plans:*** Covers a static, five-year period. The same plan is used for 5 years even after the first year has passed. A new plan is created when the PHA completes the 5<sup>th</sup> year on the current plan.

- For example, suppose a PHA is currently operating under a Fixed CFP 5-Year Action Plan for FYs 2020 through 2024. The PHA would not be required to submit a new CFP 5-Year Action Plan in EPIC for the FY 2022 CFP award, but would revise the existing plan as needed to reflect changes. PHAs are still required to provide proof of board approval and certifications of compliance with annual hearing procedures.

**5-Year Action Plan Approved in EPIC.** To be authorized to spend FY 2022 CFP Grants, PHAs must have a CFP 5-Year Action Plan that includes FY 2022 approved in EPIC.

PHAs will use the approved 5-Year Action Plan as the basis for their 2022 Annual Statements/Budgets. HUD Field Offices (FOs) review and approve or withhold approval, as appropriate of each PHA’s 5-Year Action Plan in EPIC. PHAs with an approved 5-Year Action Plan in EPIC may revise amounts to reflect actual awards and may “funge”, or reschedule, approved activities from one year to another without seeking additional FO approval. PHAs

functing or rescheduling work activities should remain in compliance with statutory and regulatory requirements for obligations and expenditures. Once the FO has approved a CFP 5-Year Action Plan in EPIC, a PHA may continue to modify the plan to reflect changing circumstances and decisions: while many modifications, such as adjusting estimated amounts, do not require additional FO approval, other changes, such as the addition of new work activities, will require FO review and approval in EPIC. Such changes will trigger a Revision in the system.

For more information visit the *Capital Fund Program EPIC website at:*  
[https://www.hud.gov/program\\_offices/public\\_indian\\_housing/programs/ph/capfund/epic](https://www.hud.gov/program_offices/public_indian_housing/programs/ph/capfund/epic)

In order to spread or re-spread BLIs in LOCCS, PHAs submit an Annual Statement/Budget or Annual Statement/Budget Revision in EPIC. LOCCS will be updated to reflect the changes within a few business days without any action on the part of Field Offices. EPIC may prevent the submission of Annual Statements/Budgets that do not comply with all requirements, including ceilings on certain BLIs and restrictions on the use of BLIs specific to debt service and to the Rental Assistance Demonstration (RAD). PHAs should continually update Annual Statements/Budgets in EPIC to reflect the planned spending on specific work items as needed, even if the work categories fall under the same BLI. PHAs should submit a final Annual Statement/Budget or Performance and Evaluation Report reflecting final expenditure amounts and Work Activities and select the “Mark as Final” option when they have expended all of the grant funds they intend to expend on a grant.

**Updated SAM registration/Unique Entity ID (UEI) Number.** The UEI registration in the System for Award Management (SAM) is a requirement to receive federal awards, and the registration must be active. If you have an expired registration in SAM or there is a discrepancy between your UEI number and your Tax Identification Number (TIN), your FY 2022 CFP grant will not be obligated/awarded until the registration is updated. Contact your Field Office for assistance with resolving SAM/UEI number issues. Once the UEI registration is updated HUD will obligate the funds and issue an ACC Amendment. Please note that the obligation end date of the FY 2022 grant will remain the same, so PHAs with expired UEI numbers will have less than 2 years to obligate the funds.

**What documents do PHAs have to submit to HUD in the EPIC Document Package?**

- Lobbying Form - SFLLL
- Certification of Compliance w/Public Hearing: (PHA must have a copy of one of the following.)
  - For Non-Qualified PHAs** - HUD form HUD-50077-ST-HCV-HP includes this certification  

Y / N	Was the public hearing conducted in FY 2022
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  - For Qualified PHAs** - A statement certifying that the PHA conducted a public hearing in compliance with 24 CFR Part 905, signed and dated by the Executive Director.  

Y / N	Was the public hearing conducted in FY 2022
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- HUD form 50071, Certification of Payments to Influence Federal Transactions
- Civil Rights Certification: (PHA must have a copy of one of the following.)
  - For Non-Qualified PHAs** - HUD form HUD-50077-ST-HCV-HP
  - For Qualified PHAs** - HUD form HUD-50077-CR

**Additionally, PHAs must submit the following:**

**Written Statement Defining Significant Amendment/Modification.** Each PHA must submit a written statement defining the criteria the PHA will use for determining a significant amendment or modification to the CFP 5- Year Action Plan. **In addition to the criteria established by the PHA, a proposed demolition, disposition, homeownership, RAD conversion, Capital Fund Financing, development, or mixed finance proposal is considered by HUD to be significant amendment to the CFP 5-year Action Plan** based on the Capital Fund Final Rule. This must be submitted as a separate written statement.

**Certification of compliance with Public Hearing and Resident Consultation Requirement.** *Qualified PHAs must submit a separate statement certifying that a public hearing was held.* For Non-Qualified PHAs, this certification is included in the HUD form HUD-50077-ST-HCV-HP. The PHA is required to hold a public hearing and meet with the Resident Advisory Board (RAB) to advise residents of the proposed CFP 5-Year Action Plan covering FY 2022. The PHA may elect to conduct the annual public hearing at the same time as the hearing for the PHA Plan.

**Recommendations and Comments Received during the Public Hearing and Resident Consultation.** **The PHA must include a copy of** the comments and recommendations that were received during the public hearing and resident consultation. The PHA must also include a description of how it addressed the recommendations from the RAB and any comments from the public before it submits the 5-Year Action Plan to HUD.

**Civil Rights Certification and Lobbying Form SFLLL.** If the PHA has already submitted these forms, please submit a duplicate copy with the EPIC Document Package.

#### **Additional Information Regarding the FY 2022 Capital Fund Grants:**

**Carbon Monoxide Detectors.** PHAs must ensure that, no later than December 27, 2022, carbon monoxide alarms or detectors are installed in each dwelling unit that contains fuel-fired/burning appliance(s) or has an attached garage in public housing owned or operated by the PHA.<sup>[1]</sup> These devices must be installed in a manner that meets or exceeds the standards described in chapters 9 and 11 of the 2018 publication of the International Fire Code, as published by the International Code Council.<sup>[2]</sup> PHAs operating public housing units may use either Operating Funds or Capital Funds for the purchase, installation and maintenance of carbon monoxide alarms or detectors. See PIH Notice 2022-01 for more information on the carbon monoxide detector requirement for PHAs.

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<sup>[1]</sup> See Division Q, Title 1 of the Financial Services Provisions and Intellectual Property, of Section 101 of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, 134 Stat. 2162 (2020). The Act requires carbon monoxide alarms or detectors be installed in all Public Housing units within two years of enactment. The law was enacted on December 27, 2020; therefore, HUD will begin enforcing this requirement on December 27, 2022.

<sup>[2]</sup> See 2018 International Fire Code full code, Chapter 9, and Chapter 11: <https://codes.iccsafe.org/content/IFC2018>; <https://codes.iccsafe.org/content/IFC2018/chapter-9-fire-protection-and-life-safety-systems>; <https://codes.iccsafe.org/content/IFC2018/chapter-11-construction-requirements-for-existing-buildings>

**New Prohibition regarding Procurement of Security Equipment produced by Huawei Technologies Company or ZTE Corporation.** Per 2 C.F.R. § 200.216 and Public Law 115-232, section 889, Capital Fund Program grantees are prohibited from using grant funds to purchase, lease, or renew or extend contracts for security equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

**FY 2022 Capital Fund Allocations adjusted for prior year over funding.** Section 237 of HUD’s FY 2022 Appropriation (Public Law 117-103) authorizes HUD to offset current year grant amounts to adjust for instances where the Department inaccurately calculated a prior year Capital Fund grant amount resulting in over funding of the grant. Examples of this are: inaccurate information about a PHA’s status as a High Performer under PHAS entitled to receive a High Performer Bonus; inaccurate information indicating that units are eligible to be included in the formula when they should not be such as when units were removed from the inventory under the Rental Assistance Demonstration but were not reported at the time OCI calculated the formula. Prior to receiving this authority, HUD would have had to recapture funds from the overfunded grants and reallocate the funding to the remaining grantees: following such a process was burdensome for all involved and would have resulted in multiple minor unscheduled increases to the rest of the grants allocated funding in a given year. In calculating FY 2022 grants, the Department offset the grants of a number of PHAs to account for overfunding in prior years and increased the grants for PHAs not subject to an offset in accordance with the FY 2022 formula calculation. OCI is separately notifying all PHAs impacted by an offset of the amount of the offset and the reason for the offset.

**FY 2022 High Performer Designations.** Pursuant to 9(d)(2)(E) of the United States Housing Act of 1937 (1937 Act) and 24 CFR 905.400(l), OCI adjusts formula allocations to award up to a 5% bonus to PHAs that are designated as High Performer PHAs under the Public Housing Assessment System (PHAS). In previous years the Department indexed the PHAS High Performer designations that it used to calculate a formula to designations determined for a specific Federal Fiscal Year. This year, the Department is shifting to using the most recent High Performer designation determined as of the date of the appropriation of funding for the Capital Fund. The shift is designed to more closely align with the regulatory language of 24 CFR 905.400(l): “. . . A PHA that is designated a high performer under the PHA’s *most recent* [emphasis added] final PHAS score may receive a performance bonus . . .” OCI is publishing a list of the High Performer designations used in the calculation of the FY 2022 formula on its website: [https://www.hud.gov/program\\_offices/public\\_indian\\_housing/programs/ph/capfund](https://www.hud.gov/program_offices/public_indian_housing/programs/ph/capfund). If a PHA has questions about the list, it should forward those inquiries to the Real Estate Assessment Center with a copy to [PIHOci@hud.gov](mailto:PIHOci@hud.gov).

**CARES Act Waivers, Extensions, and Administrative Flexibilities.** The Coronavirus Aid, Relief and Economic Security (CARES) Act (Public Law 116-136) provided HUD with broad authority to waive or establish alternative requirements for numerous statutory and regulatory requirements for the Public Housing program. The waivers and flexibilities provided under the authority of the CARES Act were only applicable to *previously appropriated* Capital Funds,

and therefore, do not apply to FY 2022 CFP grants. FY 2022 CFP grants are also not eligible to be used for activities authorized under BLI 1509 “Coronavirus.”

**Reimbursement of CFP Eligible Activities Funded with other Sources.** PHAs are not permitted to use any amount of a CFP grant to reimburse for eligible Capital Fund activities that were funded from another source. All Capital Fund obligations, expenditures, and disbursements must be recorded to the grant.

**Notification of Closeout or Future Public Housing Development (HUD-5837).** This form is notification to HUD of a PHA's intention to either closeout from the public housing program or develop new public housing units. Such removal may be through any applicable law or HUD program, which may include Sections 18, 22, 33, 32 of the 1937 Act or the Rental Assistance Demonstration (RAD) program.

**Flexibility for Capital Fund Amounts.** Starting with FY 2015 CFP awards, the limitation on Capital Funds used for Operating Fund eligible activities under BLI 1406 is increased from 20% to 25%, as identified in paragraph 2 of the FY 2022 CFP ACC Amendment.

A PHA with less than 250 public housing units, that is not designated as troubled under PHAS, may continue to use up to 100% of its annual CFP grant in BLI 1406 for activities that are eligible under the Operating Fund at 24 CFR Part 990, except that the PHA must have determined that there are no debt service payments, significant Capital Fund needs, or emergency needs that must be met prior to transferring 100% of its Capital Funds to Operating Fund purposes. A PHA may not use funds under BLI 1406 for CFP modernization activities. Those activities are to be reported under BLI 1480.

**Waiver for Anticrime and Antidrug Activities for Large PHAs (those owning/operating 250 or more public housing units).** As noted above, for FY 2022 the limitation in section 9(g)(1) of the 1937 Act is increased from 20% to 25%. For FY 2022 the Secretary may waive this limitation to allow PHAs to fund activities authorized under section 9(e)(1)(C) of the 1937 Act which allows PHAs to use Operating Funds for anticrime and antidrug activities, including the costs of providing adequate security for public housing residents, including above-baseline police service agreements.

Large PHAs seeking to place more than 25% of FY 2022 Capital Funds onto 1406 Operations for anticrime and antidrug activities ONLY must request a waiver in writing addressed to the Director of the Office of Capital Improvements, 451 7<sup>th</sup> St. SW, Washington, DC 20410, and the local field office.

The PHA *must* provide the following information and documentation along with its waiver request:

In thorough and concise narrative form,

- Identify the amount above 25% of the FY 2022 CFP award both in dollars and by percentage the PHA seeks to transfer to BLI 1406 Operations
- Identify and describe the threat that crime and drug-related activity poses to health and safety of PHA’s public housing residents

- Describe whether this is a new threat, ongoing, or increased threat
- Include the most recent crime data of the PHA’s locality (e.g., town, city, parish, or county) from a recognized source such as local law enforcement or Uniform Crime Reports that lists types and numbers of offences (may include as an attachment)
- Identify the applicable projects(s)
- Identify and describe the specific anticrime and antidrug activities the PHA plans to undertake, including the costs of such activities
- Optional Attachments:* The PHA may also wish to include supporting narrative or agreements from one or more of the following:
  - Resident Advisory Boards or PHA security personnel;
  - local Community Policing Organizations; OR
  - local officials (e.g., business council executives, or city council executives).

**PHA Plan Submission.** In order to comply with the requirements of 24 CFR 903.7(g), PHAs are required to include a statement of capital improvements needed in the PHA Annual Plan. To satisfy that requirement, a PHA must reference its latest HUD approved CFP 5 Year Action Plan covering the current Fiscal Year in its PHA Plan, prior to submission of the PHA Annual Plan. PHAs can reference the form by including the following language in Section 8.0 of the PHA Plan Template: “See HUD Form 50075.2 approved by HUD on XX/XX/XXXX.”

**Environmental Review.** In accordance with the changes in process announced in [Notice 2016-22](#), all activities at project site(s) assisted or to be assisted by HUD must receive environmental clearance before the PHA takes any choice-limiting actions or obligates any funds. HUD has made a programmatic determination under Part 50 that the operating activities listed in Appendix A of Notice 2016-22 are not subject to further environmental review; for any other activities, PHAs must request and receive clearance from either a Responsible Entity or HUD.

HUD Field Offices are not required to withhold approval of CFP 5-Year Action Plans or place manual holds on CFP grants in LOCCS, pending receipt of environmental clearance documentation. However, HUD Field Offices may elect to do so as part of enhanced monitoring.

Even though Field Offices are permitted to approve CFP 5-Year Action Plans without confirming environmental clearance, the Work Activity Description in a PHA’s CFP 5-Year Action Plan must provide sufficient specificity to facilitate effective HUD Field Office review of the plan and subsequent environmental review monitoring. Specificity is required so that Field Office staff can determine the level of environmental review required for a given work activity. PHAs are encouraged to enter information in the Description field on the scope of the activity (e.g., number of units impacted). For example, for a work activity covering roof replacement, a sufficient description may read: “Installing new 20-year roof, as well as gutters and soffits, at low-rise building containing 5 Public Housing units.” A work description simply stating “Roof” would be insufficient because it does not indicate whether the activity will cover full-scale replacement of the roof or simply patching portions of the roof, a distinction with implications for the level of environmental review required.

**PHAs Rejecting a Capital Fund Grant.** If a PHA elects to reject any CFP grant(s), the Executive Director must send a written statement to the local HUD FO which identifies the grant number(s) and dollar amount(s) of the grant(s) to be rejected. PHAs are also required to have on file a resolution from its board rejecting the CFP grant(s) for the fiscal year.

**Additional Information.** If you have any questions or need additional information, please contact the Field Office staff in your jurisdiction. For assistance from PIH Headquarters, Office of Capital Improvements, you may email your questions to [PIHOCI@HUD.gov](mailto:PIHOCI@HUD.gov).