Section 18 Proceeds: An Overview

1. How can a PHA use gross proceeds?

**Relocation Costs.** Actual and reasonable relocation expenses for all residents displaced from their public housing units as a result of a demolition and/or disposition action. Eligible costs include: a) mobility and other counseling to residents, b) moving expenses and housing search costs, c) payment of a security and/or utility deposits at a comparable housing, and d) costs of necessary reasonable accommodations under Section 504 and other HUD guidance (e.g., PIH Notice 2010-26). 24 CFR 970.19(b); 970.21(e)(2).

**Disposition transactions.** Reasonable costs of disposition, including, with HUD approval: a) application costs including environmental studies, engineering and appraisal fees, and b) closing costs, including brokerage and appraisal fees, surveys, tax certificates, recording/release costs, notary and title fees, and attorney fees, provided such costs are listed on the applicable settlement statements. 24 CFR 970.19(b).

2. How can a PHA use net proceeds? To provide low-income housing (i.e., public housing or section 8 housing), to benefit the residents of the PHA, or leverage commercial enterprises, on-site in public housing, to serve the needs of the residents. 24 CFR 970.19(e)(2). **Examples include:**

**Modernization Debt Uses.** Depending on debt instruments and HUD guidance, PHAs may repay, partially or in whole, modernization debt from the Capital Fund Financing Program (CFFP), Energy Performance Contracting (EPC) program, or Operating Fund Financing Program (OFFP).

**Capital Fund Uses.** Eligible uses under 24 CFR part 905, with no reduction or offset to future Capital Funds, but applicable requirements of 24 CFR part 905 apply. HUD encourages PHAs to include proceeds in their Capital Fund Program (CFP) 5-Year Action Plan as a non-CFP source of funds. PHAs identify proceeds in development budgets for new public housing, including public housing mixed-finance development proposals.

**PBV Development.** Costs associated with developing Section 8 project-based voucher (PBV) units. A firm development and financing plan must be in place to secure a Section 8 PBV Housing Assistance Payment (HAP) contract. PHAs may not use proceeds without reliable information that a HAP contract is forthcoming. PHAs cannot use proceeds if a property fails to meet PBV site and neighborhood standards. If HUD approves the use of proceeds, all applicable PBV program requirements apply. At closing and prior to expending proceeds, HUD requires a recorded use restriction. Proceeds may be used for acquisition or predevelopment costs prior to closing provided a use restriction is recorded. PHAs may own PBV units directly or assist third-party agreements, including to leverage with non-PBV units (e.g., market-rate or LIHTC only units).

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1 PBV program requirements are found in Section 8(o) of the 1937 Act (as amended by HOTMA, P.L. 114-201, 130 Stat. 782), program regulations at 24 CFR Part 983, and applicable guidance, which includes, but is not limited to: the HOTMA Federal Register Implementation Notice at 82 Fed. Reg. 5458 (January 18, 2017) and PIH Notice 2017-21

2 provided the contribution of proceeds is made on a pro rata basis.
**Modernization or Rehabilitation.** PHAs may use proceeds to modernize or rehabilitate project-based Section 8 units, including PBV, Project-Based Rental Assistance (PBRA) and Rental Assistance Demonstration (RAD).

**Operation of Public Housing.** Eligible Operating Fund activities (identified in Section 9(e) of the 1937 Act) with no reduction and/or offset to future Operating Funds. Once HUD approves the use of the proceeds, applicable requirements of 24 CFR part 990 apply. Generally, proceeds go towards direct and actual expenses. Proceeds cannot go into Operating Fund reserves. PHAs may use proceeds to provide direct supportive services as long as the services predominantly serve public housing residents. Services may include job training, counseling and placement; after-school activities; early child-care and day-care; programs to enhance economic self-sufficiency or reduce crime, drug, and gang activity; and mobility efforts.³

**RAD Conversions.** Proceeds can support RAD conversions, including pre-development, development, rehabilitation costs, establishment of a capital replacement or operating reserve, or other related transactional costs, provided the PHA specifically identifies proceeds in the RAD financing plan and HUD submissions, subject to HUD’s Office of Recapitalization approval, identification with RAD Conversion Commitment (RCC) and applicable requirements identified in the PIH Notice 2019-23 (REV 4) and as amended.

**Other uses.** PIH Notice 2013-28 allows the use for Section 8 shortfalls. 24 CFR 970.19(e)(2)(ii), allows leveraging commercial enterprises on public housing property to serve resident needs. HUD reviews, on a case-by-case basis, other use requests subject to consistency with the 1937 Act and 24 CFR part 970.

3. **What are prohibited uses of proceeds?**
   - **Non-assisted units.** Units must be under public housing or Section 8 (PBV, PBRA or RAD).
   - **Reserve Accounts.** Neither under the Operating Fund or Section 8 program.

4. **What are basic provisions on proceeds use?**
   - **HUD approval:** Via form HUD-52860 and IMS/PIC within SAC application
   - **if plans change:** New SAC approval is required
   - **Board Approval:** Along with resident consultation and inclusion in PHA Plan
   - **Accounting and fiduciary requirements:** Immediate deposits using Form HUD-51999 (GDA)
   - **Timing of Use:** Fiduciary responsibility for “timely” use and cash management (2 CFR part 200)
   - **Record-keeping Requirements:** See 24 CFR 970.35 and 2 CFR part 200

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³ Eligible costs may include (but are not limited to) contracts for services with third-party providers, reasonable and direct expenses and materials, rent for facilities, and reasonable salary and staffing expenses directly related to the provision of the supportive services. HUD encourages PHAs to consider the number of families served, the period of performance, and the availability of other financing sources.