

The contents of this document, except when based on statutory or regulatory authority or law, do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to affirm to the public regarding existing requirements under the law or agency policies.

Capital Programs

HUD provided waivers in capital program areas during the COVID-19 pandemic. These waivers provided the needed flexibilities for program operations. While HUD provided waivers to allow flexibilities in capital programs, PHAs were required to adopt any specific waiver they wished to use.

This section contains information applicable to the Public Housing program.

Closeout of Capital Fund Grants

PH-1: Fiscal Closeout of Capital Grant Funds

Period of Availability: Began on March 19, 2020, with end date varying by each PHA's grant closeout date.

For PHAs that adopted this waiver, HUD extended the deadline for the submission of the grant closeout documents: the Actual Development Cost Certificate (ADCC) and the Actual Modernization Cost Certificate (AMCC). The deadline was extended by a year from the end of the period of performance for all Capital Fund grants open as of March 19, 2020.

PHAs must resume submitting all financial, performance, and other reports, including the ADCC and the AMCC, no later than one year after the end date of the period of performance which, in the case of Capital Fund grants, is the expenditure end date established in LOCCS.

Total Development Costs

PH-2: Total Development Costs

Period of Availability: April 10, 2020, to December 31, 2021

PHAs may opt to adopt the waiver of the Total Development Cost (TDC) and Housing Construction Cost (HCC) limits until December 31, 2021. This waiver permits approval of amounts in excess of the published TDC and HCC limits by 25 percent and up to 50 percent, on a case-by-case basis.

Only **complete** Development Proposals submitted to HUD on or prior to December 31, 2021, will be able to take advantage of this waiver, allowing PHAs to commit public housing funds to development of a project that exceeds the applicable TDC and HCC limits. PHAs planning to submit a development proposal prior to December 31 under this waiver should consider contacting HUD to

provide advance notice of their intention to submit a proposal, to ensure that all required information is included and submitted timely.

- If the Development Proposal demonstrates that the applicable TDC and HCC limits are exceeded by less than or equal to 25 percent, the increased TDC/HCC is accepted without a further waiver from HUD.
- If the Development Proposal demonstrates that the applicable TDC and HCC limits are exceeded by more than 25 percent up to 50 percent, the Development Proposal may be approved by the HUD program office on a case-by-case basis.
- If the project exceeds the applicable TDC and HCC limits after the HUD-approved increase is taken into consideration, the PHA may submit a request for an exception per 24 CFR § 905.314(c) or request a waiver for other good cause for HUD's consideration, to allow the project to exceed the TDC and HCC limits in excess of 50 percent.

On January 1, 2022, PHAs must resume adhering to the Maximum Project Cost, which represents the total amount of public housing funds that may be used for development of a public housing project. PHAs may not exceed these limits without a waiver approved by HUD, or an exception approved by HUD pursuant to 24 CFR § 905.314(c).

Force Account Labor

PH-3: Cost and Other Limitations: Types of Labor

Period of Availability: April 10, 2020 to December 31, 2021

Non-high performing PHAs that initiated work using force account labor pursuant to the PH-3 waiver prior to January 1, 2022, may complete the force account work without seeking advance HUD approval. Beginning January 1, 2022, non-high performing PHAs must follow 24 CFR 905.314(j) and may only initiate force account labor work for development and modernization activities, if they are included in the Board approved Capital Fund Program 5-Year Action Plan approved by HUD and specifically identified as force account labor work activities. High-performing PHAs may use force account labor without HUD approval.

Capital Fund Grants Obligation and Expenditure Deadlines

12.c: Extension of Deadline for Programmatic Obligation and Expenditure of Capital Funds

Period of Availability: All Capital Fund grants open on April 10, 2020, and for new grants opened between April 11, 2020 and December 31, 2020.

This is a non-discretionary waiver that provides a 24-month extension of the obligation and expenditure deadlines for all Capital Fund grants open on April 10, 2020, and for new grants opened between April 11, 2020, and December 31, 2020. PHAs are advised to review LOCCS to ensure they are aware of the obligation and expenditure deadlines to plan the use of all grants funded by the Capital Fund.

Flexibility in the Use of Public Housing Operating Funds and Capital Funds

PIH Notice 2020-24

Period of Availability: Through December 31, 2021

The CARES Act provided Supplemental Public Housing Operating Funds and permits PHAs to use previously appropriated Capital Funds and Operating Funds with flexibility until December 31, 2021. When this authority expires on December 31, 2021, 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 Fund purposes beyond the reinstated requirements must be re-budgeted to comply with the reinstated requirements.

Capital Fund Administration

PIH Notice 2020-24

Period of Availability: Through December 31, 2021

PHAs were permitted to increase the amount charged to Administration in the Capital Grants from 10 percent to 15 percent of the grant amount. This option was available for all open Capital Grants. On January 1, 2022, the previous limitation of 10 percent 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 10 percent limit must be re-budgeted to comply with the reinstated requirements.