**CY 2018 Guidance on Complying With the Maximum Number of Units Eligible for Operating Subsidy Pursuant to Section 9(g)(3)(A) of the Housing Act of 1937**

Section 9(g)(3) of the Housing Act of 1937 ("Faircloth Amendment") limits the construction of new public housing units. The Faircloth Amendment stipulates that the US Department of Housing and Urban Development (HUD) cannot fund the construction or operation of new public housing units with Capital or Operating Funds if the construction of those units would result in a net increase in the number of units the Public Housing Agency (PHA) owned, assisted or operated as of October 1, 1999. This requirement is referred to as the "Faircloth Limit."

The Faircloth Limit is adjusted when a PHA: removes units from, adds units to, or consolidates units in the Annual Contributions Contract (ACC), consolidations, and rental assistance demonstration (RAD) removals. PHAs will not be funded for those units that exceed the posted Faircloth limit, and PHAs are responsible for reviewing the Faircloth limits and notifying HUD if they believe that their posted Faircloth Limit is not accurate.

**Instructions**

This guidance provides instructions on how HUD Field Offices (FOs) can make adjustments to their Unit Months in Columns 'A', 'B', and 'C' of Section 2, of the HUD-52723 in compliance with the Faircloth Limit [established by the Capital Fund Division, PIH's Capital Fund Office as further described in Notice PIH-2011-69 and the National List (click on the web-link) of Maximum Number of Units Eligible for Capital Funding and Operating Subsidy by PHA.

https://www.hud.gov/sites/dfiles/PIH/documents/cy18-fairclothlimit.pdf

FOs will

(i) Determine whether the Faircloth Limit is exceeded—that is, total Section 2, Column A, Line 15 for all projects, and divide the sum by 12. Compare the result with the established Limit (the National List). For purposes of this guidance, the amount, by which the PHA exceeds the Faircloth Limit is referred to as the *Excess Units*.

(ii) Ensure that PHAs, which exceed the Faircloth Limit, do not receive funding for Excess Units. Hence HUD will reduce Unit Months, beginning with the newest project in the inventory and working backward in chronological order (i.e., last-in-first-out).

(iii) Annualize the Excess Units by multiplying by 12. The Annualized Excess Units must be reduced from the Unit Months. The FO must subtract the annualized excess units from the Unit Months reported in columns A, B, and C, Section 2 of the PHA's HUD-52723. The FO will begin reducing the Unit Months in Line 1, and continue through Line 3 (with the exception of Line 2) until the number of Annualized Excess Units is completely depleted. Note that the balance in each cell can be '0' (i.e., zero) after the adjustment is made.

It is important to note that the removal of unit months from the HUD-52723 has a ripple effect in terms of eligible unit months (EUMs). If unit months are removed from Lines 01-13, Column B, Section 2 of the HUD-52723, the FO should verify that the correct EUMs—Line 15 plus Line 17 minus Line 04; Column B, Section 2—is carried over to Line 25, HUD-52722. Generally, when unit months are removed from the HUD-52723, the Rolling base in the HUD-52722 must be adjusted. Guidance on how to adjust the rolling base when removing units can be accessed by clicking on the web-links below.

https://www.hud.gov/sites/documents/RBA_GUIDANCE.PDF