



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

Special Attention of:

Public Housing Agencies
Public Housing Hub Directors
Public Housing Program Center Directors
Regional and Field Office Directors
Resident Management Corporations

Notice PIH-2021-04

Issued: January 15, 2021

This notice remains in effect until amended, superseded, or rescinded

Cross References:

Notices: PIH-2020-30; PIH-2020-05;
PIH-2020-03; PIH-2018-19;
PIH-2018-12; PIH-2017-22;
PIH-2011-69; PIH-2011-65

Regulations: 24 CFR 905
24 CFR 905.300; 24 CFR 903;
24 CFR 990; 24 CFR 970;
24 CFR 965; 24 CFR 964;
24 CFR 5.110; 2 CFR 200.333(b)

44 U.S.C. 3520; 42 U.S.C.
4332(2)(C); 42 U.S.C. 1437 *et seq*

Public Law 110-161

Section 209: Public Law 115-174

Harvard Cost Study (2003)

Subject: Public Housing Operating Fund (“OpFund”) Grant Eligibility Calculations and Processing for Calendar Year (CY) 2021

1. Purpose.

This notice provides public housing agencies (PHAs) with instructions for calculating OpFund grants for CY 2021 and establishes submission deadlines.

2. Background.

HUD provides OpFund grants for public housing at the project level on a calendar year basis. The OpFund Grant program is authorized under the United States Housing Act of 1937 (42 U.S.C. 1437g). Regulatory requirements for the OpFund Grant program are located at 24 CFR Part 990. For CY 2021, funding for the OpFund Grant program was allocated by Congress through the Further Consolidated Appropriations Act, 2020 (enacted Dec. 19, 2020).

PHAs must electronically submit separate OpFund grant calculations for each project identified in HUD's Inventory Management System - Public and Indian Housing (PIH) Information Center (IMS-PIC). PHAs submit this information using electronic versions of the forms HUD-52722 and HUD-52723, which are referred to as "Excel tools."

3. Communication.

HUD disseminates information to PHAs using the following methods:

- The CY 2021 OpFund Grant Processing Web Page contains information related to CY 2021 OpFund Grant Processing. It can be accessed through the following link.

https://www.hud.gov/program_offices/public_indian_housing/programs/ph/am/opfnd2021

- The OpFund Web Portal brings OpFund processing to a web-based platform for PIH Field Offices (FOs) and PHAs. PIH FOs submit and certify the FO versions of the forms HUD-52723 and HUD-52722 through the OpFund Web Portal which can be accessed using the following link.

https://www.hud.gov/program_offices/public_indian_housing/programs/ph/am/webportal

- The OpFund Grant Listserv is used to send out mass emails on important subjects using two lists of email addresses. These lists include one containing the email addresses of record in IMS-PIC, and one containing the email addresses that were used to sign up for the OpFund Grant Listserv. The OpFund Grant Listserv can be accessed using the following link:

https://www.hud.gov/program_offices/public_indian_housing/programs/ph/am

4. Applicability.

This notice applies to PHAs administering the Public Housing program, including PHAs participating in the Moving to Work (MTW) Demonstration.

PHAs receiving transition funding (as defined in 24 CFR 990.115) should be aware that continued qualification for that element of the formula requires continuous compliance with asset management requirements stipulated in 24 CFR 990 Subpart H.

Beginning with the Consolidated Appropriations Act, 2008 (Public Law 110-161, approved December 26, 2007), Congress allowed PHAs with 400 or fewer public housing units to elect to

be exempted from any asset management requirements imposed by HUD relating to the OpFund grant rule. If this exemption is removed from Fiscal Year (FY) 2021 Consolidated Appropriations, previously exempt PHAs will find required modifications to their submissions posted on the CY 2021 Financial Management Division (FMD) external web page.

5. Changes and Additions to this Notice.

Compared to Notice PIH-2020-03, the following changes and additions are included in this notice.

- Added Cross References: regulations, statutes, notices and documents cited in this Notice
- Created a new Section 3: Communication.
- Added Appropriations language to Section 4
- Added language on project groupings in Section 8b.
- Coronavirus (COVID-19) related issues are discussed in Section 9.
- Added language to Section 13B related to the *Frozen Rolling Base Program*, pursuant to Section 209 of Public Law (PL) No. 115-174.

6. HUD's Initial and Calendar Year Obligations of CY 2021 OpFund Grant.

At the beginning of the calendar year, HUD will be funding projects and deploying Excel tools for projects determined to be eligible. If HUD funds a project or generates Excel tools for a project that is not eligible, the PHA must not draw down the funding or submit the Excel tools. If ineligible amounts are drawn, the PHA must report such transaction its local PIH FO, which will initiate action to recapture the amount drawn. If HUD does not fund or does not generate Excel tools for a project that the PHA considers eligible for operating funds, the PHA should contact its local HUD (PIH) Field Office (FO).

At the beginning of the year, HUD estimates eligibility from data it pre-populates into the Excel tools. After the Excel tools are processed, HUD funds projects based on the eligibility shown in those Excel tools. As Excel tools are updated throughout the year, HUD funds projects based upon the most recently processed Excel tools. There is a lag in funding PHAs based on updated Excel tools because of the time required to process the updated Excel tools and obligate funds.

PHAs can identify the most recent Excel tool processed by HUD in the OpFund Web Portal. HUD funds each project on a cumulative basis (e.g., funding for February would bring total funding for the year up to 2/12ths of prorated eligibility, and funding for March would bring total funding for the year up to 3/12ths of prorated eligibility). On a portfolio level, HUD's estimated funding is close to funding based upon actuals (i.e., funding based upon Excel tools submitted by PHAs). On a project level, estimated eligibility can vary significantly from actual eligibility.

If a PHA finds that the estimated eligibility exceeds the project's actual eligibility for CY 2021, the PHA must not draw down any excess funds and shall immediately notify the appropriate FO. HUD offsets, de-obligates, or requires repayment of any funded amounts for any project deemed ineligible or any project overfunded based on incorrect estimates.

HUD publishes obligation reports on the OpFund Grant Processing Web Page, which identify the amount of funds obligated throughout the calendar year. This includes a detailed calculation report for every obligation that can help a PHA understand fluctuations it may experience in funding amounts.

PHAs can access their current and historic OpFund data in the OpFund Web Portal, in addition to using the OpFund Web Portal to:

- Download the forms HUD-52723 and HUD-52722.
- Export forms HUD-52723 and HUD-52722 data to Excel tools.
- Review historical eligibility data and reports.
- Identify the status of new project requests.
- Create and submit SF-424, form HUD-50071 & SF-LLL (Disclosure of Lobbying Activities)
- Submit PHA versions of forms HUD-52723 & HUD-52722 and related supporting documents

7. General OpFund Grant Submission Processing for CY 2021.

PHAs must have a Dun & Bradstreet Data Universal Numbering System (DUNS) identification and number as well as active registration in the System for Award Management (SAM; www.sam.gov), and an accurate Tax Identification Number (TIN) in the Line of Credit Control System (LOCCS) to receive OpFunds. The OpFund webpage provides directions on how to obtain a DUNS number. **HUD will suspend or not obligate OpFund Grants Operating Fund grants for PHAs that do not comply with these requirements.**

Required Forms and Documentation

For HUD to determine the amount of OpFund grants that they receive, PHAs must complete and submit the following electronic forms for each project using the Opfund Web Portal to the appropriate FO:

- A. Form HUD-52723: information on this form is used to calculate the amount of OpFund grant eligibility.
- B. Form HUD-52722: information on this form is used to calculate utilities expense level
- C. SF-424, Application for Federal Assistance: PHAs must submit a signed SF-424. The CY 2021 OpFund Grant Processing Web Page contains guidance on how to complete the SF-424. Each PHA shall submit only one SF-424 for its entire 2021 OpFund Grant. To clarify what PHAs are certifying to via the SF-424, HUD created a list of certifications (provided below) that the SF-424 applies to and has also published that list on the FMD's external web site, here:

<https://www.hud.gov/sites/dfiles/PIH/documents/SF-424-CERTIFICATIONS-ASSURANCES.V2.pdf>

Public Housing Operating Fund Calculation of Operating Fund PHA-Owned Rental Housing Form HUD-52723, Section 5, Certifications:

1. Based on PHA submission of the Form HUD-52723 - I hereby certify the information provided on this form and in any accompanying documentation is true and accurate. I acknowledge that making, presenting, submitting, or causing to be submitted a false, fictitious, or fraudulent statement, representation, or certification may subject me to criminal, civil, and/or administrative sanctions, including fines, penalties, and imprisonment. 18 U.S.C. §§ 287, 1001, 1010, 1012, 1014 and 31 U.S.C. §§ 3729, 3802.
2. In accordance with 24 CFR 990.215, I hereby certify that _____ Housing Agency is in compliance with the annual income reexamination requirements and that rents and utility allowance calculations have been or will be adjusted in accordance with current HUD requirements and regulations.
3. (If applicable) In accordance with Section 225 of the Consolidated Appropriations Act, 2008 (Public Law 110-161, approved December 26, 2007) and subsequent acts containing the same provisions, I hereby certify that _____ Housing Agency has 400 or fewer units and is implementing asset management.
4. (If applicable) In accordance with 24 CFR 990.260 of Subpart H – Asset Management, I hereby certify that _____ Housing Agency has 250 units or more and is in compliance with asset management. I understand in accordance with 24 CFR 990.190(f), PHAs that are not in compliance with asset management will forfeit the asset management fee.

Signing the SF-424 does not exempt the Officials from making the appropriate certifications and assurance on the listed documents.

- D. Form HUD-50071 Certification of Payments to Influence Federal Transactions: HUD will provide guidance on how the forms will need to be submitted for 2021.
- E. Other supporting documentation requested by the FO.

Based on PHA submission of the Form HUD-50071, I hereby certify the information provided on this form and in any accompanying documentation is true and accurate. I acknowledge that making, presenting, submitting, or causing to be submitted a false, fictitious, or fraudulent statement, representation, or certification may subject me to criminal, civil, and/or administrative sanctions, including fines, penalties, and imprisonment. 18 U.S.C. §§ 287, 1001, 1010, 1012, 1014 and 31 U.S.C. §§ 3729, 3802.

- F. Other supporting documentation requested by the FO and submitted via email.

8a. Submission Process.

Instructions for completing Excel tools and other required documents, submission deadlines, and guidance materials related to various formula elements are posted on the OpFund Grant Processing Web Page. Failure to meet the posted submission deadline are grounds to deny OpFund grants to a PHA.

NOTE: PHAs must submit the Excel tools and other required documents to HUD regardless of whether they are prepared by their fee accountants or any other entity acting on behalf of the PHA. Fee accountants or entities other than the PHA are not to submit the Excel tools and other required documents directly to HUD.

HUD plans to make PHA versions of forms HUD-52723/HUD-52722 submission module available for CY 2021 and further training/instruction to follow.

8b. Project Regroupings.

Project regrouping changes, including transfers and consolidations per Notice PIH-2018-12, which become effective after HUD pulls IMS-PIC project, building and unit characteristics for the calculation of Project Expense Levels (PELs) for the coming funding year, will apply to OpFund grant calculations for the following funding year. In this case, the OpFund Grant program will continue to fund PELs based on the project characteristics that existed prior to the regrouping through the current year and fund PELs based on the regrouped projects in the following funding year. PHAs should use the PEL estimator to understand the possible financial impact of regroupings before proceeding with regroupings. They must ensure that their accounting treatment of the OpFund grant properly treats the funding provided prior to the changes becoming effective.

9. Pre-populated Data.

HUD pre-populates the CY 2021 Excel tools for the forms HUD-52723 and HUD-52722. HUD uses unit status for the reporting period *July 1, 2019, through June 30, 2020*, as reported in the IMS-PIC system to pre-populate the CY 2021 Excel tools. Asset Repositioning Fee (ARF) eligibility is derived from IMS-PIC and pre-populated into the form HUD-52723. Unit status data from IMS-PIC is modified based on the ARF eligibility determinations. If pre-populated data is incorrect, PHAs can request modifications in the comments section of the form HUD-52723, or request edits from their FO. Table 1 presents edits that PHAs and FOs can and cannot make.

Table 1: CY 2021 Pre-populated Formula Data

Item Description	PHA Can Edit	FO Can Edit
Project Number	No	No
Name of PHA	No	No
Address of PHA	No	No
DUNS Number (pre-populated from LOCCS data)	Yes	Yes
Total number of Annual Contribution Contract (ACC) units for the PHA	No	Yes
Unit status data: Form HUD-52723, Section 2, Categorization of Unit Months, Lines 01, 02, and 05 through 13	No	Yes
*Unit status data: Form HUD-52723, Section 2, Categorization of Unit Months Lines 03 and 04; Column A, Lines 6a and 17, Column B	Yes	Yes
Per Unit Month (PUM) PEL	No	No
PEL inflation factor	No	No
Utilities expense level (UEL) inflation factor	No	No
Payment in lieu of taxes (PILOT)	Yes	Yes
Cost of independent audit	Yes	Yes
ARF: Form HUD-52723, Section 3, Line 14	Yes	Yes
PUM formula income	Yes	Yes
**Transition funding	No	No

**On the form HUD-52723, unit status data in Section 2, Categorization of Unit Months, Column A, Lines 03 and 04 are for new units that do not have a full reporting period of unit status data.*

*** PHAs that did not comply with asset management in a prior funding cycle, will not have transition funding pre-populated into their form HUD-52723*

Non-asset management PHAs with multiple projects in IMS-PIC may report their portfolio as a single combined project in the Financial Assessment Submission Subsystem (FASS)-PH Financial Data Schedule (FDS). HUD uses FDS data from 2 years before the funding year. If a non-asset management PHA has multiple projects in IMS-PIC, it will continue to submit Excel tools for each project. HUD pre-populates Formula Income, PILOT, and Audit Fees for projects that submit FDS data. Because this FDS data relates to multiple projects, the PHA will need to be allocated it to the sections of the Excel tools for projects that were not pre-populated with this data. The cumulative amount for all projects for each line item must sum to the pre-populated data, unless adjusted pursuant to OpFund grant guidance (i.e., Formula Income can be adjusted for FSS and PILOT, and audit fees can be updated to reflect more recent expenditures). Guidance on how to allocate Formula Income is available on the OpFund Grant Processing Web Page.

10. COVID-19 related issues.

The COVID-19 national pandemic is designated as a disaster for the purpose of 24 CFR 990.145 (b)(2). Units that are vacant due to COVID-19 are eligible to be placed in the approved vacancy category of “vacant due to a disaster.”

The COVID-19 pandemic may adversely affect the formula income inflation factor, which in turn is used in the calculation of per unit month (PUM) formula income.

$$\text{PUM Formula Income} = (\text{Net Tenant Revenue} \div \text{Unit Months Leased}) \times \text{Inflation Factor}$$

The inflation factor is derived from the Total Tenant Payment (TTP) reported by PHAs on the form HUD-50058. HUD's Office of Policy Development and Research (PD&R) uses the average of TTP for the past 5 years to calculate the income inflation factor. Business closures and job losses induced by the COVID-19 pandemic may affect TTP leading to a reduction the inflation factor.

10. Changes to Pre-Populated Unit Months Data.

PHAs enter unit status data into IMS-PIC, which is used by HUD to calculate the OpFund grant formula. PHAs must ensure the unit status data in their OpFund grant submissions are correct and, if needed, work with their respective HUD FOs to edit their unit status data.

Prior to requesting a change to unit status data, PHAs must ensure the source data in IMS-PIC is changed to remain consistent with the Form HUD-52723. Most changes to IMS-PIC can be made directly by PHAs. Some changes require an IMS-PIC Coach or a Technical Assistance Center (TAC) ticket. PHAs should ensure that changes are made as early as possible and prior to submitting the Excel tools to their FO. HUD posts pre-populated unit status data via the OpFund Web Portal in advance of deploying Excel tools. By reviewing the posted data, PHAs initiate efforts to change the source IMS-PIC data before the tools are deployed.

If FOs implement changes to unit status data pre-populated in Section 2 of the form HUD-52723, and the change results in an increase in funding, the PHA should change the IMS-PIC data to match the change of unit months on the form HUD-52723, or, if the PHA is unable to make the change directly in IMS-PIC, the FO should obtain documentation of a TAC ticket created to modify the data, or evidence that the change is appropriate but cannot be made because of system limitations.

Guidance (on timely reporting) in Notice PIH-2011-65 requires PHAs to submit forms HUD-50058 and HUD-50058 MTW within 60 days of the effective date of any actions recorded on line 2b of the forms. HUD Notice PIH-2020-05 waived the 60-day deadline and provided that PHAs must submit forms HUD-50058 or HUD-50058 MTW for transactions impacted by implemented waivers and alternative requirements of Notice PIH-2020-05 within 90 days of the effective date of action.

Although the waiver provided up to 90 days for PHAs to submit HUD-50058 forms into IMS-PIC, HUD encourages PHAs to continue submitting HUD-50058 forms within the normal 60-day timeframe if they have the capacity to do so.

HUD normally pulls unit status data from IMS-PIC 61 days after the end of the reporting period (August 30) to repopulate the form HUD-52723.

11. Submission of Excel Tools for New Projects.

To receive funding for new project/units, PHAs must initiate the process by submitting an email to their FO requesting funding for a new project. The email must contain the project development number with text indicating that it is a new project for which the PHA would like to receive funding.

Throughout the funding year, FMD will generate a list of potential new project/units in IMS-PIC that have an actual Date of Funding Availability (DOFA) data and are in management status. This list will be viewable in the New Project section of the OpFund Web Portal.

The HUD FO will confirm the eligibility of the new project in the OpFund Web Portal. Once confirmed by the FO, FMD will prepare and deploy the Excel tools and make them available to the PHA.

New project requests may be submitted at any point during the year. However, to receive funding for new projects in CY 2021, PHAs must email their funding requests to their local HUD FOs no later than June 1, 2021. HUD encourages PHAs to request new Excel tools as early as possible. After receiving a request, the FO must complete a request for a new project in the OpFund Web Portal no later than June 8, 2021.

HUD deploys Excel tools multiple times during the year to provide timely funding to PHAs. PHAs may identify the status of any new project request by accessing the New Project module in the OpFund Web Portal.

HUD will deploy Excel tools for new projects and notify PHAs via email no later than June 15, 2021. PHAs must submit the Excel tools using the OpFund Web Portal to the appropriate HUD Field Office no later than June 22, 2021, to receive funding in 2021. **Submissions received after the deadline will not be considered for funding in CY 2021.** If the criteria for funding were met in the prior funding year PHAs may include eligible unit months for October, November, and December of the prior funding year as appropriate in their new project's CY 2022 submission in Section 2, Categorization of Unit Months, Column A, Line 04. Section 2, Column A, Line 4 is reserved for new units that were occupied in the previous calendar year and not included in the previous calendar year submission's eligible unit months.

In order to be considered eligible for funding, new project/units, at a minimum, must have the following information in IMS-PIC:

- Annual Contributions Contract (ACC) Units
- Management Status
- Actual DOFA

To add a new project in IMS-PIC follow the job aid found here:

https://www.hud.gov/sites/dfiles/PIH/documents/building_unit_uploadjobaid.pdf

Funding for new project/units differs from existing project/units due to the timing and availability of certain data elements that drive the OpFund grant formula. For example, new project/units lack sufficient utility information necessary to calculate a stand-alone UEL. In addition, new project/units normally lack audited or unaudited FDS data which is used to compute formula elements such as formula income, audit costs, and PILOT. As a result, new projects/units must follow special procedures that are different from existing projects that have a full reporting period. Finally, all new projects/units are considered fully occupied until they have a full year of reporting period data for the purposes of calculating the Eligible Unit Months (EUMs). Detailed guidance can be found on the CY 2021 OpFund Processing Web Page here:

<https://www.hud.gov/sites/dfiles/PIH/documents/CY21NewProjectGuidance.pdf>

12. Submission of Request for Revision to the CY 2021 OpFund Grant Eligibility.

The submission of a revised Excel tool by a PHA to its FO constitutes a request for a revision. In making such a submission, the PHA MUST provide an explanation of the change(s) being requested, and the reason for the change(s). Prior to making its revision request, the PHA should initiate contact with the FO well in advance so that they can resolve any issues prior to the revision deadline. PHAs may request revisions to their original CY 2021 Operating Fund grant submissions based on any of the four reasons listed below.

- a. Correction of mathematical, clerical, information system, or other errors.
- b. Approval of demolition or disposition of units; or new units in existing projects already under payment (24 CFR 990.155).
- c. Approval of new utilities incentives/contracts pursuant to 24 CFR 990.185, but not including Rate Reduction Incentives.
- d. Submission of appeals in accordance with this notice and approved by HUD (pursuant to 24 CFR 990.245).

All revision requests MUST be submitted to the FO no later than August 16, 2021. Requests after this date will not be accepted, unless the change lowers OpFund grant eligibility or results from a documented HUD error, in which case such requests are required.

13. OpFund Grant Calculation.

This section provides detailed explanations of how OpFund eligibility is calculated. The formula for OpFund eligibility is:

$$\text{Operation Fund Eligibility} = (\text{PEL} + \text{UEL}) \times (\text{EUM}) + \text{Add-ons} - [\text{Formula Income} \times (\text{EUM})]$$

where eligible unit months (EUM) are the number of public housing units in eligible categories expressed in months for a specified time frame and for which a PHA receives operating fund grants. The Excel tools are programmed to calculate the OpFund eligibility using this formula.

With the exception of ARF, public housing units must be subject to the ACC and be in management status in IMS-PIC to receive OpFunds. In general, to for Formula Income, PEL, UEL, and most Add-ons to be included in the calculation of eligibility, public housing units must be either: (1) a unit occupied by a public housing-eligible family under lease pursuant to 24 CFR 990.120(b), 24 CFR 990.125(a), and 24 CFR 990.140; (2) a dwelling unit with a HUD-approved vacancy pursuant to 24 CFR 990.125(b) as defined in 24 CFR 990.145; or (3) a vacant unit at or below the limited number of vacancies pursuant to 24 CFR 990.125(c) as defined in 24 CFR 990.150. Eligibility for some Add-ons, such as asset management fees and ARF, is limited to units meeting certain criteria (these are discussed below).

The remainder of this section discusses the components of the Opfund eligibility formula in detail.

A. The PEL

The PEL is a model-generated cost estimate for each project, exclusive of taxes, utilities, and add-ons. The PEL is expressed as a per unit month (PUM) cost and is based on IMS-PIC project, building and unit characteristics. PELs may change when PHAs regroup their projects. To estimate the impact of project regroupings, PHAs can use the **PEL Estimator** on the Asset Management Project Expense Levels web page at:

https://www.hud.gov/program_offices/public_indian_housing/programs/ph/am/pels

B. The UEL and Central Office Cost Center (COCC)

The UEL is the product of the utility rate, the payable consumption level, and the utilities inflation factor, and is expressed as a PUM dollar amount. COCC utility consumption and costs are not included in the calculation of the PHA's project UEL on the form HUD-52722. If the COCC is located within a project, actual consumption, including the rolling base consumption and utility costs for the COCC, must be excluded from the UEL calculation for the project. PHAs must explain the methodology used to exclude COCC data (e.g., square footage).

To access guidance for excluding COCC utility consumption and costs from combined consumption and costs in a pre-asset management Energy Performance Contract (EPC), use this link below:

<http://portal.hud.gov/hudportal/documents/huddoc?id=epc-cocc.pdf>

When a PHA removes a unit from inventory and there is less than a full 12 months of consumption in the reporting period, consumption for these units shall be removed from in Line 1 of the form HUD-52722, the consumption for the removed unit is also reduced from the rolling base. Access guidance on how to adjust the rolling base when units are removed from inventory here:

https://portal.hud.gov/hudportal/documents/huddoc?id=rba_guidance.pdf

Section 2 Column B, Lines 04, 15, and 17 of the form HUD-52723 are used to calculate the number used to populate Line 25 of the form HUD-52722. Also, the UEL on Line 26 of the form HUD-52722 must be used to populate Section 3, Part A, Line 5 of the form HUD-52723. Funding may be suspended for projects where the form HUD-52723 and form HUD-52722 are not consistent with each other.

The UEL and the Small Rural Frozen Rolling Base Program (SR-FRB): Section 209 of Public Law (PL) No: 115-174 Economic Growth, Regulatory Relief, and Consumer Protection Act Economic Growth Act allows eligible PHAs to elect to have the UEL portion of their OpFund Grant formula calculated using the average annual consumption for the most recent three-year period for a period of up to 20 years. This three-year period is defined as the Small and Rural Frozen Rolling base (SR-FRB). Details on the requirements of the program can be found in Notice PIH-2020-30. To elect to participate in the SR-FRB, eligible PHAs must email SR_FRB@hud.gov. The email must indicate that the:

1. PHA elects to participate in the SR-FRB
2. project number(s) for which the PHA is electing to participate, and
3. utilities for each project that they are electing to participate.

As identified in Section 4 of Notice PIH-2020-30, PHAs may make one-time adjustments to the SR-FRB. To the extent that the PHA is seeking an adjustment to the SR-FRB, it must submit documentation required by PIH 2020-30, or as otherwise needed to establish how the PHA adjusted the SR-FRB.

The emails must be sent by the PHA after their initial submission of forms HUD-52723 and HUD-52722, but no later than April 14, 2021. HUD will review the PHAs' submissions in accordance with the requirements of Notice PIH-2020-30. If approved, HUD will update the rolling base data in the form HUD-52722, re-deploy the form in the Portal, and notify the PHA via email. The PHA will be required to ensure that form HUD-52722 is accurate, update the UEL PUM on form HUD-52723 Section 3, Part A,

Line 5, and resubmit both forms to HUD by the revisions deadline identified in Section 11 d of this Notice.

Exclusion of Trash Collection Cost from the UEL. The UEL includes the following utilities: gas, electric, heating fuels, water, and sewer service, consistent with the OpFund definitions at 24 CFR 990.115. Trash collection cost must be excluded when using utility types to calculate UEL in the HUD-52722. PHA-paid trash collection cost is included in the pre-populated PEL PUM formula element. The [Harvard Cost Study](#) PEL model acknowledges “Trash removal expenses are treated as a maintenance expense and not a utility expense in the Chart of Accounts for public housing.” Where waste management companies bill trash collection charges to individual units, PHAs may include trash collection service fees in the tenant utility allowance stipulated in 24 CFR 965 Subpart E.

C. Formula Income

Formula income is an estimate of a PHA’s non-Operating Fund rental revenue. The CY 2021 per unit month (PUM) formula income will be pre-populated based on the PHA’s approved FY 2019 FASS-PH Financial Data Schedule (FDS) submission when available. When available, FY 2019 financial data must be used.

The PUM formula income is calculated in two steps: Step 1: divide the Net Tenant Rental Revenue by Unit Months Leased (UMLs). Step 2: multiply the PUM formula income (determined in Step 1) by the CY 2021 formula income inflation factor. Mixed Finance projects that do not submit Net Tenant Rental Revenue or UMLs in their FDS submission must submit an audited financial statement and twelve months of rent roll data from the project’s owner entity whenever available, along with their submission of Operating Fund Excel tools to support the formula income amount included on the form HUD-52723. The inflation factor used for mixed finance projects will always be based upon the Fiscal Year End (FYE) on December 31, as the FYE of owner entities for tax credit projects is always December 31. This may differ from the PHA’s FYE. Guidance on how the formula income inflation factor is derived and the formula income methodology are posted on the CY 2021 OpFund Grant Processing webpage.

Energy Performance Contracts

Special guidance for capturing the resident-paid utilities incentive in a HUD-approved energy performance contract on form HUD-52723 (Section 3, Part B, Line 01, PUM formula income) is on the CY 2021 Operating Fund Processing Web Page.

Jobs Plus Earned Income Disregard (JPEID)

A PHA’s annual formula income may be adjusted if the PHA participates in the Jobs Plus program. PHAs are not permitted to receive OpFund grant amounts based on rent not collected due to income disregarded while administering a Jobs Plus program (i.e., the JPEID). Since HUD pre-populates formula income with data from the FDS, the JPEID results in an increase to OpFund grant. HUD will make a manual adjustment to a PHA’s

HUD-52723 and HUD-52722 after submission. Detailed guidance on the methodology used to make JPEID related adjustments to Formula Income will be provided to PHAs during the funding year.

The above noted adjustment does not apply to MTW PHAs subject to an Alternative OpFund Grant formula that do not use FDS data as part of their formula.

Self-Sufficiency Services

The Family Self-Sufficiency (FSS) program enables families assisted through the Public Housing programs to increase their earned income and reduce their dependency on social services and rental subsidies. Under the FSS program, families living in low-income housing can choose to enter into a contract of participation and are provided opportunities for education, job training counseling and other forms of social service assistance so that they can develop the necessary skills required to achieve self-sufficiency. Also, escrow accounts are established for FSS participants by the PHA.

As the skills of a participant's skills increase, earnings likely increase, resulting in an increase in the participant's rent. Under the FSS program, the PHA places the increase in rent into the escrow account. Provision of OpFund grant amounts to the PHA for its FSS escrow payments is through an adjustment to formula income in the calculation of OpFund grant on the form HUD-52723. PHAs must reduce the tenant rent portion of formula income (on the form HUD-52723) by the amount of their FSS escrow payments. PHAs should enter appropriate comments in the comment section of the form HUD-52723 when FSS escrow adjustments are made. PHAs must maintain supporting documentation of how they determined the decrease in formula income and submit the documentation to the FO upon submission of their Excel tools. The FO uses the supporting documents to validate the decrease to formula income.

D. Mixed Finance Modernization

Mixed finance development can involve modernization rather than new construction. Mixed finance modernization often involves the use of Low-Income Housing Tax Credits (LIHTC) to modernize an existing public housing project. Because of LIHTC rules, ownership of the existing public housing project must be transferred to a new owner entity. This requires that the project be removed from inventory (IMS-PIC) via a Section 18 disposition application, then added back to inventory (IMS-PIC) via a development proposal. Such projects are subject to 24 CFR 905.304(a)(2) and retain their DOFA date that existed prior to modernization as described in 24 CFR 905.604.

(a) Impact on OpFund Grants

Public housing units disposed for mixed finance modernization in the exiting project are **not eligible for ARF**. When the PHA submits the Section 18 disposition application via IMS-PIC, the PHA selects the category "Mixed Finance MOD-REHAB" as the type of units included in the mixed finance modernization development proposal.

PHAs should add the new project, and enter the removal date for the old project, to IMS-PIC immediately upon closing. Once the work that required the unit to be vacant has been completed, even if additional modernization work continues, the unit must be either re-occupied by an eligible family or placed in vacant status.

(b) Designation of Units as Vacant for Modernization

PHAs using mixed finance modernization to modernize public housing units, may submit a request to their Field Office to place any units that must remain vacant to undertake the planned modernization work, into the approved vacancy status of Vacant for Modernization. Such units can be placed in this category before the closing of the mixed finance transaction. The units can be kept in this status for up to 2 years (24 months) prior to the mixed finance modernization closing.

Once the mixed finance modernization transaction has closed and modernization has begun, the units may remain in the *Vacant for Modernization* status until work is complete, if it is on schedule. Once the work that required the unit to be vacant is complete, even if additional modernization work continues, the unit must be either re-occupied by an eligible family or placed in vacant status.

In order to receive FO approval to place a unit in a Vacant for Modernization status, the planned modernization activity must be in a HUD-approved PHA Annual Plan for non-qualified PHAs (24 CFR part 903); a HUD-approved 5-Year Plan for qualified PHAs (24 CFR Part 903) (if no Capital Funds are being used as part of the modernization, a narrative description of the work, including the projected start and completion date, should be included in the Capital Improvements section of the Plan); or a HUD-approved Capital Fund Program 5-Year Action Plan (24 CFR 905.300) if Capital Funds are also being used for modernization.

Timely adding the new project to IMS-PIC is critical to maintaining uninterrupted funding. A job aid describing how to add a new project to IMS-PIC can be found here:

https://www.hud.gov/sites/dfiles/PIH/documents/building_unit_uploadjobaid.pdf

Guidance on Unit Status for Environmental Health Hazards

PHAs may use the Vacant for Modernization category if they have vacant units due to environmental health hazards such as lead-based paint, lead in water and radon, and have a plan with identified resources to address the hazard(s). This allows PHAs that have taken a proactive approach to test and develop mitigation strategies for units that are still being listed as vacant to be classified as vacant for modernization.

E. Add-ons

Add-ons include the following types of costs: independent audit costs, PILOTs, asset management fees, information technology fees, ARFs, Elderly/Disabled Service Coordinator (EDSC) costs, FSS program costs (described earlier under Formula Income), EPCs, and Resident Participation costs.

1. Cost of Independent Audit

Independent Audit cost is reported for the OpFund Grant Program when required by the Single Audit Act or when a single audit is not required and the PHA elects to have a financial statement audit prepared. Once audit costs are included in a funding eligibility calculation, the PHA is required to complete an audit for the matching PHA Fiscal Year and submit it to HUD. Audits are submitted electronically in accordance with the Uniform Financial Reporting Standards (24 CFR part 5 Subpart H). A project whose OpFund eligibility is determined to be zero is still eligible to receive an OpFund grant amount equal to its most recent audit costs pursuant to 24 CFR 990.190(d), subject to proration. This may occur when program expenses (PEL + UEL) + Add-ons – Formula Income are equal to or less than zero.

When CY 2019 FDS data is available, project audit costs are pre-populated in the HUD-52723. If the audit cost is not pre-populated, the PHA shall report its most recent actual audit cost and attach proof of payment when submitting the CY 2021 HUD-52723.

For mixed finance projects with both ACC and non-ACC units, the audit costs are prorated to the amount allocable to ACC Public Housing units. The amount is based on the ratio of ACC units divided by total units.

$$\text{Ratio} = \text{ACC units} \div (\text{ACC units} + \text{non-ACC units})$$

2. PILOT

For CY 2021, project PILOT amounts are calculated and pre-populated in the form HUD-52723 based upon approved CY 2019 FASS-PH FDS data. If a PHA submits a form HUD-52723 with a project's PILOT amount that is greater than the amount pre-populated, the PHA must attach proof of payment with the submission.

Regulatory requirements at 24 CFR 990.190(c) stipulate that “each PHA will receive an amount for PILOT in accordance with Section 6(d) of the 1937 Act, based on its cooperation agreement or its latest actual PILOT payment.” Section 6(d) of the 1937 Act specifies the PILOT is equal to “10 per centum of the sum of the shelter rents charged in such project, or such lesser amount as (i) is prescribed by State law, or (ii) is agreed to by the local governing body in its agreement for local cooperation with the public housing agency required under Section 5(e)(2) of this Act, or (iii) is due to failure of a local public body or bodies other than the PHA to perform any obligation

under such agreement.” PILOT is pre-populated in the form HUD-52723 by calculating 10 percent of shelter rents (i.e., rent less utilities). If one of the lesser amounts identified in (i), (ii) or (iii) above apply, the PHA overrides the pre-populated amount with the lesser amount. For existing projects, the following line items from the Low Rent Public Housing column of the project’s audited FASS-PH FDS submission are used to calculate the PILOT:

- 70300 Net Tenant Rental Revenue
- 93100 Water
- 93200 Electricity
- 93300 Gas
- 93400 Fuel
- 93600 Sewer
- 93800 Other Utilities

Calculation: Add Lines 93100 – 93400, 93600 and 93800; subtract the sum from line 70300; multiplying the result by 10 percent (expressed as 0.10 shown below):

$$\text{PILOT} = [\text{Line 70300} - (\text{Lines: 93100} + \text{93200} + \text{93300} + \text{93400} + \text{93600} + \text{93800})] \times 0.10$$

For mixed finance projects the PILOT may not be pre-populated, in which case the PHA submits the owner entity’s Audited Financial Statement to the FO when submitting the CY 2021 form HUD-52723. For mixed finance projects with both ACC and non-ACC units, the PILOT may need to be prorated to determine the amount allocable to public housing units. This happens only when both non-ACC and ACC units are subject to the PILOT. Public housing units paying real estate taxes and not subject to a PILOT, may not include a PILOT in its OpFund Grant calculation.

3. Asset Management Fee

PHAs with more than 400 public housing units under ACC must comply with asset management requirements under 24 CFR 990.255 - 990.290 (Subpart H). PHAs not in compliance with asset management requirements are not eligible for the asset management fee pursuant to 24 CFR 990.190(f) or stop loss pursuant to guidance in Notices PIH-2007-16 and PIH-2006-35, as amended, and regulations at 24 CFR 990.230(d).

Asset management fees are determined as follows: (1) PHAs with at least 250 units are eligible for a \$4 per unit asset management fee for each month the project is subject to the ACC and in management status; and (2) PHAs with fewer than 250 units that elected to transition to asset management are eligible for a \$2 per unit asset management fee for each month the project is subject to the ACC and in management status. PHAs with only one project, regardless of the number of units,

are not eligible for an asset management fee pursuant to 24 CFR 990.190(f). MTW agencies' eligibility for asset management fees are subject to the terms of their MTW agreement. PHAs with one project may continue to receive stop loss based on compliance with the limited asset management requirements of their stop loss approval. For further explanation, refer to:

<https://www.hud.gov/sites/dfiles/PIH/documents/TransitionStopLossAssetmgmtGuidance.pdf>

4. Information Technology Fee

In accordance with 24 CFR 990.190(g), OpFund calculations include \$2 PUM for costs attributable to information technology based on the total number of ACC units.

5. Asset Repositioning Fee (ARF)

PHAs must follow regulatory requirements at 24 CFR 990.190(h). PHAs must ensure that PIC data is accurate in calculating their ARF eligibility. Critical data elements include the HUD demolition/disposition/homeownership approval date and, for homeownership, the date of removal from inventory. Additional elements for non-homeownership cases include the days to relocation in the Demolition and Disposition (Demo/Dispo) module and the End of Participation (EOP) of the first move out after the relocation date. PHAs should work with their FO to make corrections. Modifications to the Demo/Dispo module should conform with guidance in Notice PIH-2017-22 as amended. ARF is only available for dispositions or demolitions conducted under 24 CFR part 970.

When a unit is eligible for ARF, PHAs should move any unit months used to calculate ARF to Section 2 Column A, Line 12 of the form HUD-52723, except as noted below. After ARF eligibility ends, if the units are not yet removed from IMS-PIC, they are reported in Column A, Line 13.

Section 3, Line 14 of the form HUD-52723 is pre-populated with ARF eligibility calculated based on IMS-PIC data. However, PHAs must confirm the accuracy of this data element and revise it as needed prior to submitting their form HUD-52723. It is especially important to review the ARF calculation in the first year of ARF eligibility, because after the first year of eligibility PHAs may not change data elements used in the calculation. PHAs must submit supporting documentation detailing the ARF calculation for the requested amount.

If the PHAs calculation is accurate, in addition to changing the pre-populated data in Section 3 Line 14, unit status data in Section 2 of the form HUD-52723 may also need to be changed. If the underlying IMS-PIC data is inaccurate, the FO should work with the PHA and the Special Application Center (SAC) to correct the data. (FO should follow the ARF Standard Operating Procedures (SOP) found in the FMD internal Webpage). To initiate corrections, the PHA submits the following

documentation to their FO along with their form HUD-52723. The FO may request additional documentation if needed. The PHA should present a spreadsheet showing the ARF eligibility calculation and related information, including:

- a. Project number and Demo/Dispo application number.
- b. Date of the approval letter.
- c. For non-homeownership, number of days to relocation after the approval letter is issued and the resulting relocation date. For homeownership cases, the disposition date.
- d. For non-homeownership cases, the first move out after the relocation date consistent with the EOP in IMS-PIC or a statement that all units were vacant on the date of the approval letter or the relocation date.
- e. ARF unit months for the project or building(s), which equals the number of ARF eligible months multiplied by the number of ARF eligible units; and
- f. Detailed calculation of ARF funding for each year of eligibility, including ARF unit months, the PEL and the PEL inflation factor.

PHAs must revise their form HUD-52723 submissions to reflect changes in eligibility (based on the removal of units) on a quarterly basis. If the entire project is ARF eligible (i.e., all units are disposed of in accordance with section 18 of the 1937 Act and 24 CFR part 970, removed from IMS-PIC and not subject to the ACC), after the expiration of ARF eligibility, the project is not eligible for the non-ARF portions of the OpFund formula. If a project is only partially ARF eligible, the units that are not ARF eligible remain eligible for non-ARF portions of the OpFund Grant formula. If a PHA has no units under ACC, but one or more of its projects are ARF eligible, those project(s) remain eligible for Operating Fund Grants as long as the units remain eligible for ARF.

6. Elderly/Disabled Service Coordinator (EDSC) Program

For CY 2021, the public housing share of reasonable costs of salary, fringe benefits and administrative costs for the EDSC Program is eligible for OpFund subsidies. Only PHAs previously receiving EDSC funding are eligible. Eligibility is posted on the CY 2020 Operating Fund Processing Web Page.

Total EDSC eligibility increases annually up to the amount of the annual inflation factor in Section 3, Part A, Line 02 of the form HUD-52723. Eligible PHAs should enter the eligibility amount in Section 3, Part A, Line 07 of the form HUD-52723. This "Self-sufficiency" line is restricted to the EDSC program and does not include Resident Opportunity and Self-Sufficiency (ROSS) funding.

If a PHA's public housing inventory (i.e., the number of units in IMS-PIC that are subject to the ACC) decreases (e.g., due to Rental Assistance Demonstration (RAD) conversion), the PHA's EDSC (funded as an OpFund add-on) decreases proportionately.

7. Energy Loan Amortization for Energy Performance Contracts

With a HUD-approved EPC, a PHA may qualify for certain incentives under the OpFund formula described in 24 CFR 990.185. Pursuant to 24 CFR 990.190(b), a PHA with a HUD-approved EPC for the "Add-on" incentive, is eligible for Energy Loan Amortization. Copies of EPC approval letters (and amended versions) must be retained by the PHA and FO for the life of the EPC. Moving to Work (MTW) PHAs with self-approval authority in their Standard MTW Agreement must submit a request to their FO describing the type and term of EPC benefits claimed, and a list of developments for which the benefits are claimed.

If the cost savings for any year during the contract period are less than the amount of OpFund grant claimed, the deficiency will be offset against the PHA's OpFund grant eligibility for the PHA's next fiscal year.

8. Funding for Resident Participation Activities

Pursuant to 24 CFR 990.190(e), PHA OpFund calculations include \$25 per occupied unit per year for resident participation activities, including but not limited to those described in 24 CFR Part 964. A unit is eligible to receive resident participation funding if it is occupied by a public housing resident or it is occupied by a non-assisted PHA employee, or police officer or other security personnel who is not otherwise eligible for public housing. In any fiscal year, if appropriations are not sufficient to meet all funding requirements under this part, then the resident participation component of the formula is adjusted accordingly through proration.

14. Environmental Requirements.

As noted in the Operating Fund rule at 24 CFR 990.116, environmental review procedures of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) and implementing regulations at 24 CFR parts 50 and 58 are applicable to the Operating Fund Program.

15. Moving to Work PHAs With an Alternative OpFund Grant Formula Agreement (Attachment A).

- A. MTW PHAs with alternative OpFund formula agreements submit requests for OpFund subsidies in accordance with their MTW Agreements – Attachment A. In cases where this involves submitting one request on a PHA-level, Form HUD-52722 is not submitted but PHAs must submit the following to their FOs:

- B. Form HUD-52723: Enter data in accordance with the MTW agreement, which generally includes entries for Section 1; Section 3, Part C, Lines 01 and 04; and Part D, Lines 01 and 03.
- C. Documentation supporting the agreement's formula (i.e., the PHA's calculation workbook for the CY 2021 OpFund grant, which must include unit months data for the reporting period, add-on subsidies, non-utility and utility subsidies, and the RAD adjustment (if any) for converted units as referenced in Attachment A of the MTW Agreement). Supporting documentation must be submitted with the Form HUD-52723 by the scheduled deadline.

MTW PHAs not submitting one form will have their electronic form pre-populated in the same manner as regular formula PHAs and shall complete and submit all sections of the forms HUD-52723 and HUD-52722 on a project-level basis in the same manner as regular formula PHAs.

16. The General Depository Agreement (GDA) – form HUD-51999.

In accordance with U.S. Treasury requirements and 24 CFR part 200, PHAs are subject to various cash management requirements. Further Section 9 of the Public Housing Annual Contributions Contract (form HUD-53012A 7/95) requires PHAs to place public housing funds in accounts subject to a General Depository Agreement (GDA) – form HUD-51999. When PHAs enter into depository agreements with financial institutions for accounts holding public housing funds such as Operating Fund grants, Program Income, and disposition proceeds (PHA deposits), PHAs are required to have a GDA with the financial institution that establishes the terms and conditions dictating the investment, and collateral and securitization requirements for the PHA's deposits. A GDA ensures that all of the PHA's deposits or funds otherwise associated with public housing for purposes of public housing, remain available for their required purpose. This is accomplished by requiring such financial grant assistance to be deposited into interest-bearing accounts at financial institutions whose deposits and accounts are insured by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Share Insurance Fund (NCUSIF). Moreover, whenever those PHA deposits exceed the insured limits, the GDA requires those PHA deposits to be fully and continuously collateralized with Treasury approved investments. HUD generally does not approve modifications to the GDA, but if a PHA wants to request approval to modify or add an addendum to the GDA, it must request a HUD waiver under 24 CFR 5.110 and follow the usual HUD regulatory waiver process detailed in Notice PIH-2018-19.

17. Appeals.

- A. Pursuant to 24 CFR 990.240, appeals are voluntary and cover the PHA's entire portfolio, not single projects. The Assistant Secretary for Public and Indian Housing has the discretion to accept appeals that are less than an entire portfolio for PHAs with greater than 5,000 public housing units. All other appeals must be based on an impact that affects the entire PHA, not an impact to a single project or set of projects, and any appeals that address single projects and not the entire portfolio will be denied.

B. Types of Appeals. 24 CFR 990.245 establishes four types of appeals:

1. Streamlined appeal. Requires the PHA to demonstrate a blatant and objective flaw in the application of a specific OpFund formula component.
2. Appeal for changing market conditions. A PHA may appeal to receive OpFund grant funding for vacant units due to changing market conditions after the PHA undertakes aggressive marketing and outreach measures to rent these units. The vacancies cannot be the result of action or inaction by PHA management, but an appeal may be approved for changing market conditions if a PHA located in an area suffering economic dislocations. While normal economic cycles may increase the number of low-income households in an area and increase demand for public housing, severe economic dislocation might lead to population loss significant enough to cause a shortage of applicants, even with aggressive marketing and outreach. Market conditions can be approved at any time, but not retroactively.

The other two types of appeals are limited to PEL-related issues. The PEL is a pre-populated formula data that cannot be edited by PIH FOs or PHAs (see Table 1). However, a PHA may appeal a pre-populated PEL based on (a) effects of specific local conditions, and (b) actual project cost data.

3. Appeal for specific local conditions. This appeal requires the PHA to demonstrate that the model generated PEL fails to reflect specific local conditions. To be eligible, the affected PHA must demonstrate, using an independent cost assessment, that the model generated PEL is not accurate for comparable properties in the PHA's market area, with a variance of ten percent (10%) or greater. The cost of services for the independent cost assessment is paid by the appellant PHA.
4. Appeal to substitute actual project cost data. A PHA may appeal its PEL if it can produce actual project cost data derived from actual asset management as outlined in 24 CFR 990 Subpart H, for a period of at least two years. For this type of appeal, the PHA must also submit an independent cost assessment.

Notwithstanding the foregoing, nothing in this notice is meant to prevent a PHA from corresponding with the Director of the Office of Public Housing, Director of Financial Management Division, their respective FO Director, or other PIH staff, as appropriate, regarding any issues or concerns regarding this notice and OpFund grant eligibility.

C. Appeal Requirements

For streamlined appeals, the PHA must describe the flaw and submit supporting documentation. For "specific local conditions" appeals and "substitute actual project cost data" appeals, the PHA is to acquire, at its own expense, an independent cost assessment comparing costs for comparable affordable housing properties to the costs for each public housing project for the PHA, and its public housing portfolio in total, considering

OpFund grant formula eligibility to meet those costs. The person performing the assessment must have appropriate knowledge of multifamily operating costs within the local market. The independent cost assessment must be included in the PHA's submission to HUD, and must include:

1. Comparable Data: Cited data must be verifiable by HUD with complete source identification. Itemized comparative data must include locality, occupancy type, building type, expenses, and PELs. (Refer to Public and Indian Housing *IMS-PIC Development Submodule User Manual*, pages 4-7, for definitions of building types).
2. Adjustments: Assessments must fully disclose any adjustments made to the comparative data, including the nature of the adjustment, the reason for the adjustment, the adjustment method and citation of source documents.
3. Reporting: Assessments must present the entire PHA's portfolio in a table format and include the following for each individual project:
 - a. Number of units
 - b. Occupancy type
 - c. Building type
 - d. Current PEL
 - e. Appellant's suggested PEL
4. For "actual project cost data" appeals the PHA must also submit actual project cost data derived from actual asset management as outlined in regulations at 24 CFR 990 subpart H for a period of at least 2 years.

D. Appeal Processing Requirements for CY 2021

PHA appeals for "changing market conditions" are to be submitted to the PIH Director and staff point of contact at the appropriate FO no later than the deadline for the PHA to submit its original OpFund grant submission for CY 2021.

"Streamlined," "local conditions," and "actual project cost data" appeals must be sent by email to Neba.V.Funiba@hud.gov, William.G.Jones@hud.gov, and Joshua.Blechman@hud.gov with the subject line "Appeal under 24 CFR 990.245." These appeals must be sent within 60 days of the PHA's initial submission of the CY 2021 forms HUD-52722 and HUD-52723. The PHA also must provide a copy of the appeal to the PIH FO Director of Public Housing, and the staff point of contact.

Final appeal decisions will be issued no later than 30 days prior to the revisions deadline. If a PEL appeal is granted, HUD will deploy new Excel tools to the OpFund Grant Processing Web Page. The PHA must then submit the revised forms HUD-52722 and HUD-52723 to the FO by the revisions deadline. After the form is processed, HUD will adjust the PHA's OpFund grant by the appropriate amount, which will be retroactive to the beginning of the year.

18. Rental Assistance Demonstration (RAD).

A. Funding

For units that convert through RAD, for the remainder of the first Calendar Year (i.e., the "Initial Year") in which a Housing Assistance Payment (HAP) contract is effective, OpFund Grants will be obligated to the PHA for the Covered Project based on the OpFund eligibility calculated as it normally is, without regard to the converted units.^[1] PHAs must submit forms HUD-52722 and HUD-52723 and follow the normal OpFund grant process (including revisions where corrections are needed) for the project for the Calendar Year in which the HAP contract becomes effective^[2]. The amount of OpFund Grants that can be used for HAP payments during the Initial Year is capped at HUD's OpFund Grant obligations to the project for the remainder of the year of conversion, prorated by the portion of units in the development that are converting and will be removed from IMS-PIC. In the year after the HAP effective date, the converted units shall not receive any further OpFund Grant.

When a unit is approved but not removed via Section 18 and subsequently converts through RAD, the unit will be identified as approved for removal via Section 18 until it converts through RAD. Such units must be transferred to the RAD application in IMS-PIC immediately before the conversion occurs.

For partial conversions, the rolling base must be adjusted in the OpFund Grant submission the year after the HAP effective date. Please see the instructions for the Form HUD-52722 (available on the CY 2021 OpFund Grant Processing Web Page, and via HUDCLIPS) for details on adjusting the rolling base. See the CY 2021 OpFund Grant Processing Web Page for further guidance on adjusting the rolling base when units are removed from inventory.

The following applies to RAD conversions with HAP effective dates in 2020 or before:

- Projects that are fully converted through RAD, with HAP effective dates in 2020 or before, are not eligible for 2021 OpFund Grant.

¹ For example, a RAD closing on December 10 will result in a HAP Contract that is effective on January 1 or February 1. For the remainder of the Calendar Year which includes the January 1 or February 1 date, this action will not impact public housing

² The HAP effective date is the day on which HAP payments begin.

- For projects that are fully converted with HAP effective dates in 2020 or before, if the conversion happened early in 2020, HUD must not deploy an Excel tool for 2021 for the project. However, if the conversion happened late in 2020, HUD may deploy an Excel tool and/or fund the project in error because of the timing of data availability. If an Excel tool is deployed for a project for 2021, but that project fully converted and has a 2020 HAP effective date, the PHA must not submit the Excel tool. If such a project is funded in 2021, the PHA must not draw down funds and must notify their FO that the project should not have been funded.
- For projects that are partially converted with HAP effective dates in 2020 or before, the PHA and FO must ensure that no EUMs for units that converted through RAD are included in the Excel tools. For projects that close early in the year prior to the funding year, HUD will remove EUMs from the RAD units from Section 2 of the Form HUD-52723. However, in all instances, the FO and PHA must ensure that the EUMs from converted units are removed.

B. Designation of Units Converting through RAD as Vacant for Modernization

Units in a project with a commitment to execute a HAP approval, which the PHA plans to modernize and are vacant because a PHA has not reoccupied them in preparation for modernization pursuant to a RAD conversion plan, can be considered as “units undergoing modernization,” provided they comply with 24 CFR 990.145. Such vacant units may be categorized as undergoing modernization for a maximum of 2 years (24 months) prior to RAD conversion (i.e., HAP effective date). To receive such designation, the units must be approved by the FO, and the unit status correctly reflected in IMS-PIC. Furthermore, the RAD conversion and planned modernization must be in: (i) a HUD approved PHA Annual Plan for non-qualified PHAs (24 CFR Part 903); (ii) a HUD approved Capital Fund Program 5-Year Action Plan for qualified PHAs (24 CFR Part 903) (if no Capital Funds are being used as part of the modernization, a narrative description of the work, including the projected start and completion date, should be included in the capital improvements section of the Plan); or (iii) a HUD approved Capital Fund Program 5-Year Action Plan (24 CFR 905.300) if Capital Funds are being used for modernization.

Vacant units converting through RAD that will not be modernized are not eligible to be categorized as units undergoing modernization. PHAs are reminded they may not contribute public housing program funds to projects post-RAD conversion unless those public housing funds (OpFunds and or Capital Funds) have been identified in the RAD Conversion Commitment (RCC) and those public housing funds are converted at closing for Section 8 RAD purposes.

19. Turnkey III Projects.

Funding requests for the Turnkey III program that use the Form HUD-53087 “*Calculation of Subsidies for Operations: Non-Rental Housing*” are accepted only for projects/units under the final lease purchase agreement for closing out the program. These requests must have

supporting documentation including ACC and active lease purchase agreements. New lease/purchase agreements will not be funded. A PHA needs to provide the status of the properties with respect to the following:

- Are units still occupied by a family under an option to purchase under a homeownership agreement?
- What is the remaining term of the agreement?

If there is no effective contract with the residents and the PHA is under the Faircloth limit, the PHA may apply under the 24 CFR Part 905 acquisition development method to make these properties public housing rental units. These units will otherwise be ineligible for OpFund program funding as Turnkey III units. Once the units are transitioned to regular public housing units, the PHA must ensure that these units' IMS-PIC program type is changed to "Low Rent". The submission deadline for Turnkey projects is the same as that for the initial submission of the forms HUD-52723 and HUD-52722. Turnkey submissions after the deadline will not be accepted and projects will be ineligible for funding that year.

20. EnVision Center Participation.

HUD EnVision Centers provide communities with a centralized hub for support in economic empowerment, educational advancement, health/wellness, as well as character and leadership development. EnVision Center Participation for the predominant use by public housing residents can be assisted with OpFund grants and should be reported in Section 2, Line 06 of the form HUD-52723. A unit allocated for the center will be classified as one of the HUD-approved vacant units used for resident services, resident organization offices, and related activities such as self-sufficiency and anti-crime initiatives pursuant to 24 CFR 990.145(a)(2)

21. The Faircloth Limit.

Section 9(g)(3) of the Housing Act of 1937 ("Faircloth Amendment") limits the number of public housing units that may receive public housing funding. The Faircloth Amendment stipulates that the Department 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 PHA owned, assisted or operated as of October 1, 1999. This requirement is referred to as the "Faircloth Limit." The Faircloth Limit is adjusted for PHA transfers of units under ACC, consolidations, and RAD removals. PHAs will not be funded for those units that exceed the posted Faircloth limit, and are responsible for reviewing the Faircloth limits and notifying HUD if they believe their posted Faircloth Limit is in error.

The Faircloth Limit is determined by PIH's Office of Capital Improvements. (See Notice PIH-2011-69.) Additional information on how the Office of Capital Improvements determines the Faircloth limit, can be found on the Capital Fund website at:

https://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/p/h/capfund

Because the OpFund grant is calculated on an EUM basis, the Faircloth Limit is converted to unit months attributable to a funding year (the Faircloth Unit Month Limit) before being posted on the OpFund Grant Processing Web Page. Where the aggregate of unit months (Form HUD-52723 Section 2, Column A, Line 15 minus Line 4) for all of a PHA's projects exceeds the Faircloth Unit Month Limit, the excess units must be removed from the PHA's OpFund Forms.

In the absence of an IMS-PIC ticket which corrects the Faircloth violation, removal of excess units shall be accomplished by reducing Line 1 and Line 3 in Columns A, B, and C of Section 2 form HUD-52723, beginning with the project most recently added to inventory. If the total number of unit months in the most recently added projects is less than the excess units, Line 1 and Line 3 of the next newest project added to inventory shall be reduced in the same manner, until no excess units remain. If an IMS-PIC ticket exists that will correct the Faircloth violation, the unit status on the form HUD-52723 should be updated to align with the IMS-PIC ticket. Likewise, if IMS-PIC has already been updated, the unit status on the form HUD-52723 should be updated to align with the updated IMS-PIC data.

It is important to note that appropriate adjustments need to be made to the EUMs on the form HUD-52722 whenever units are being reduced on the form HUD-52723 form.

22. PHA Board Resolution.

The PHA Board Resolution (the form HUD-52574) approving the PHA's operating budget must be submitted to the appropriate FO prior to the beginning of the PHA's fiscal year. Only one Board Resolution needs to be submitted per PHA, regardless of the number of projects. If the PHA has more than one project, insert the phrase "for all projects" in the first checkbox description. The checkbox then will read "Operating Budget for all projects approved by Board resolution on: [date]."

23. Record Retention.

HUD regulation at 24 CFR 990.325 requires PHAs to retain documents related to all financial management and activities funded under the OpFund Grant for a period of 5 fiscal years after the fiscal year in which the funds were received. However, guidance in the Office of Management and Budget (OMB) super circular—2 CFR 200.333(b)—allows Federal agencies (including HUD) to extend the record-retention period for non-Federal entities if this is done in writing. Therefore, HUD reserves the right to extend the record-retention period beyond 5 fiscal years and will notify PHAs in writing when such extensions are warranted.

24. Further Information.

All questions from PHAs are to be referred to the appropriate FO.

25. Paperwork Reduction Act.

The information collection requirements contained in this notice have been approved by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C.3520) and assigned OMB approval

numbers 2577-0026, 2577-0029, 2577-0157 and 2577-0246. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB number.

26. Penalty for False Claims and Statements.

HUD will seek civil, criminal, or administrative action against individual and entities who either make, present, submit, or cause to be submitted a false, fictitious, or fraudulent statement, representation, or certification. 18 U.S.C. §§ 287, 1001, 1010, 1012, 1014 and 31 U.S.C. §§ 3729, 3802.

/s/
Dominique Blom, General Deputy Assistant
Secretary for Public and Indian Housing