



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

OFFICE OF PUBLIC AND INDIAN HOUSING

Special Attention of:

Directors of Public Housing
Regional Directors,
Housing Authorities/Agencies

Notice PIH-2022-20 (HA)

Issued: July 27, 2022

Cross Reference: None
This notice remains in effect until
amended, superseded, or rescinded

SUBJECT: Family Self-Sufficiency (FSS) Program: Establishment of the Escrow Account and Use of Forfeited FSS Escrow

1. Background and Purpose

Section 306 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (“the Act”) made multiple amendments to the Family Self-Sufficiency (FSS) program. In response to the Act, HUD published a proposed rule on September 20, 2020, to implement changes required by the Act and to streamline the FSS program. After consideration of public comments and further consideration of issues addressed during the proposed rule stage, HUD published a final rule on May 17, 2022, effective on June 17, 2022

The purpose of this notice is to clarify a few sections of the new rule (24 CFR part 984) related to the establishment of the FSS escrow account, the use of forfeited FSS escrow, and the reporting of FSS escrows in the Financial Assessment Sub-System for Public Housing Authorities (FASS-PH).

2. Establishment of FSS Escrow Account

24 CFR § 984.305 (a)(1) requires the PHA or owner to deposit FSS escrow account funds of all families participating in an FSS program into a single interest-bearing depository account. The new rule adds: The depository account may be part of the PHA’s or owner’s overall accounts or a separate account. Therefore, the PHA or owner has the option to:

- (1) Deposit the FSS escrow account funds into a separate bank account which will be used to account solely for the FSS escrow; or
- (2) Deposit the FSS escrow account funds into a bank account that is used for other PHA/owner activity.

PHAs or owners that choose to deposit the FSS escrow funds into a bank account that is also used for other PHA/owner activity must ensure that FSS escrow funds are used only for the permitted uses of escrow. For example, the PHA has one bank account that the PHA uses for

HCV administrative activity and FSS escrow activity. The bank account balance is \$100,000 of which \$40,000 is escrow balances. At most the PHA could incur costs up to \$60,000 in HCV administrative expenses as any other additional HCV administrative expense would result in the expense being covered by FSS escrow which would not be an eligible cost.

Under either option, PHAs and owners must comply with all accounting requirements found at 24 CFR § 984.305(a)(2) “Accounting for FSS escrow account funds.” All escrow transactions must be supported by the PHAs accounting records, including the use of forfeited escrow (see section 3 of this Notice).

In addition, all FSS escrow funds are to be deposited into an account(s) that are subject to a properly executed General Depository Agreement (GDA) – form HUD-51999.

For convenience the full regulatory language of 24 CFR § 984.305 (a)(1) and (a)(2) is provided below.

(a) Establishment of FSS account—(1) General. The PHA or owner shall deposit the FSS account funds of all families participating in an FSS program into a single interest-bearing depository account. The PHA or owner must deposit the FSS account funds in one or more of the HUD-approved investments. This account may be part of the PHA’s or owner’s overall accounts, as long as it is in compliance with § 984.305(a)(2).

(2) Accounting for FSS account funds—(i) Accounting records. The total of the combined FSS account funds will be supported in the accounting records by a subsidiary ledger showing the balance applicable to each FSS family. During the term of the contract of participation, the escrow credit amount shall be determined in accordance with paragraph (b) of this section at each reexamination of income which occurs after the effective date of the contract of participation. Such escrow credit amount must be applied each month by the PHA or owner to each family’s FSS account.

3. Forfeited FSS Escrow Account Funds

Now, under the Final Rule, 24 CFR § 984.305(f)(2) requires that forfeited FSS escrow funds be used by the PHA/owner for the benefit of FSS participants in good standing (as opposed to being returned to HAP or Operating Fund). The requirement that forfeited FSS escrow funds must be used for the benefit of FSS participants in good standing is a new program requirement that resulted from language in the Act. This notice clarifies that forfeited FSS escrow funds can be used to benefit any FSS participant in good standing in the PHA/owner’s FSS program, regardless of the original funding source (e.g., public housing, HCV, etc.) used to fund the now forfeited FSS escrow accounts. For example, an HCV family is in the PHA’s FSS program and their escrow account was funded with HCV HAP funds. If the family forfeits its escrow, the funds can be used for the benefit of any FSS participant in good standing, including FSS participants that are not in the HCV program.

The requirement that forfeited FSS escrow account funds must be used for the benefit of any FSS participant in good standing is effective per the effective date of the Final Rule (June 17, 2022). Therefore, if for example, an FSS participant forfeits their escrow six months after

the new rule is effective, the entire accumulated FSS escrow balance as of the forfeiture date is considered forfeited and must be used by the PHA/owner to benefit any FSS participant in good standing. Prior to the effective date, any FSS forfeiture that occurred must be treated as under the previous rule (returned to the Operating fund or HCV HAP fund from whence they came).

24 CFR § 984.305(f)(2) under the Final Rule provides a list of those eligible and ineligible uses of FSS forfeited escrow funds.

(2) *Treatment of forfeited FSS escrow account funds.* FSS escrow account funds forfeited by the FSS family must be used by the PHA or owner for the benefit of the FSS participants.

(i) Specifically, such funds may be used for the following eligible activities:

(A) Support for FSS participants in good standing, including, but not limited to, transportation, child care, training, testing fees, employment preparation costs, and other costs related to achieving obligations outlined in the CoP;

(B) Training for FSS Program Coordinator(s); or

(C) Other eligible activities as determined by the Secretary.

(ii) Such funds may not be used for salary and fringe benefits of FSS Program Coordinators; general administrative costs of the FSS program, for housing assistance payments (HAP) expenses or public housing operating funds; or any other activity determined ineligible by the Secretary.

4. Financial Data Schedule Reporting

HUD's Uniform Financial Reporting Standards (UFRS) Rule (24 CFR § 5.801) requires PHAs that administer the Section 8 and/or Section 9 programs to submit annual financial data to HUD (FASS-PH Financial Data Schedule). Specifically, UFRS requires that financial data are: 1) prepared in accordance with Generally Accepted Accounting Principles (GAAP) as further defined by HUD in supplementary guidance; 2) submitted electronically to HUD through the internet; and 3) submitted in such form and substance as prescribed by HUD.

Because GAAP does not normally address accounting and reporting issues that are specific to PHA and PIH programs, HUD issues supplementary guidance. REAC has issued Accounting Brief 26 "Financial Reporting for the Family Self-Sufficiency (FSS) Program dated July 20, 2022) to address conforming reporting guidance on the financial data schedule as a result of the new FSS regulation. The revised accounting brief can be found on the FASS-PH website

https://www.hud.gov/program_offices/public_indian_housing/reac/products/fass/pha_briefs or through the following link [Accounting Brief 26: Financial Reporting for the Family Self-Sufficiency \(FSS\) Program](#). Accounting Brief 26 supersedes Accounting Brief 23, which was the previous accounting brief on FDS reporting of the FSS program.

5. **Record Retention**

The OMB regulation at 2 CFR § 200.334 provides general record retention requirements. Most notably, OMB requires that records pertinent to a federal award must be retained for a period of at least three years from the date of submission of the final expenditure report.

2 CFR § 200.334(b) allows Federal agencies to extend the record-retention period for non-Federal entities (e.g., PHAs) if the extension is made in writing. HUD reserves the right to extend the record-retention period beyond three fiscal years and will notify PHAs in writing if and when such an extension is warranted.

6. **Further Information**

Questions concerning this Notice should be submitted by email to the following HUD mailbox: FSS@hud.gov. For specific FDS reporting questions, PHAs should contact their FASS-PH analyst and/or manager for further information and answers.

7. **Paperwork Reduction Act**

The information collection requirements contained in this Notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C § 3520). In accordance with the PRA, 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 control number.

- FDS. The Public Housing Financial Management template is assigned OMB approval number **2535-0107**.

8. **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/

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Public and Indian Housing