



**U.S. Department of Housing and Urban Development
Office of Public and Indian Housing**

Special Attention of:

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

Notice PIH 2012-27

Issued: June 8, 2012
Expires: December 31, 2012

Cross Reference: 2011-55

Subject: Calendar Year 2012 \$20 Million Set-Aside for Financial Hardship due to Public Housing Operating Subsidy Allocation Adjustment

1. Purpose

This notice provides public housing agencies (PHAs) with information on the \$20 million set-aside pursuant to HUD's Federal Fiscal Year (FFY) 2012 Appropriations, Public Law 112-55, to assist PHAs who encounter financial hardship as a direct result of the subsidy allocation adjustment applied to the Calendar Year (CY) 2012 operating subsidy calculations (the "set-aside"). Specifically, the Notice addresses eligibility for the set-aside, and the criteria HUD will use in awarding assistance.

2. Background

HUD's Federal Fiscal Year 2012 appropriations provided for an offset of operating subsidy eligibility against PHA excess operating reserves. The FFY 2012 appropriations limited the offset to ensure that PHAs would not be left with less than \$100,000 in operating reserves, and provided for an appeals process for PHAs to appeal their initial allocation amounts. Additionally, the FFY 2012 appropriations included a set-aside of up to \$20,000,000 available to PHAs that encounter a financial hardship as a direct result of the offset.

Notice PIH 2011-55 provided instructions to PHAs on public housing operating subsidy calculations for CY 2012. That Notice included a full discussion of the procedures to be used in calculating offset amounts pursuant to P.L. 112-55. The reduction of 2012 funding eligibility resulting from this process is referred to as the "subsidy allocation adjustment".

After determining the CY 2012 operating fund eligibility for each PHA project, HUD made an initial determination of the subsidy allocation adjustment (if applicable) to the PHA's subsidy eligibility. This adjustment represented a *reduction* in operating subsidy eligibility for CY 2012, based on the amount of the PHA's operating reserves above the minimum level as outlined in PIH 2011-55.

Notice PIH 2011-55 addressed procedures for PHAs to request to *exclude* a portion of their reserves from HUD's subsidy allocation adjustment calculation (i.e., the "appeal" envisioned by P.L. 112-55, also referred to as the "exclusion requests" in Notice PIH 2011-55). PHAs were invited to review their preliminary subsidy allocation adjustment and submit exclusion requests. HUD assessed these requests and notified PHAs of the approval or disapproval of the requests in February 2012. Where requests were approved, the PHA's initial subsidy allocation adjustment was modified accordingly.

In accordance with P.L. 112-55, this notice provides PHAs with information on how HUD defines financial hardship as a direct result of the subsidy allocation adjustment applied to the CY 2012 operating subsidy calculations, and how HUD will award the set-aside.

3. Eligibility Requirements

To be eligible for hardship funding from the set-aside, a PHA must meet both of the following criteria:

- a.** For CY 2012 operating subsidy calculations, the PHA **received a subsidy allocation adjustment** of any amount.
- b.** HUD determines that the **PHA operating reserves are less than the minimum level of operating reserves ("minimum reserve level")**.

The minimum reserve level is defined as:

- For a PHA with fewer than 250 units – an amount equal to six months of operating expenses held in reserve or \$100,000, whichever is greater
- For a PHA with 250 or more units – an amount equal to four months of operating expenses held in reserve or \$100,000, whichever is greater

To determine the operating reserves amount for each PHA, HUD will use data from the subsidy allocation adjustment and the most recent audited or unaudited financial statement approved by FASS as of one week after the date of this Notice ("approved FDS submission"), utilizing financial submissions for FYEs between June 30, 2010 and December 31, 2011. If a PHA does not have an approved FDS submission for FYEs between June 30, 2010 and December 31, 2011, it will not be eligible for the set-aside funding.

For purposes of determining operating reserves for the hardship eligibility determination, PHAs will not be allowed to revise previously approved financial statements for the time periods noted above, prior to HUD pulling financial statement data from HUD systems.

Notwithstanding the above, to the extent that a PHA is financially troubled and does not have an approved FDS submission for the above noted FYEs, HUD will accept an unaudited or audited financial statement that has not been approved by HUD, for its most recent FYE not later than December 31, 2011, provided that:

- The PHA Executive Director (ED) submits a certification that, to the best of the ED's knowledge, the financials fairly present the financial position of the PHA.

- The PHA ED submits a completed copy of Attachment A to this Notice, supporting the amount of their request.
- The PHA submits a letter or memo of support from the appropriate Field Office, indicating that to the best of its knowledge the PHA is financially distressed, and the Field Office Director recommends that the PHA be considered for set-aside funding.
- If such a financially troubled PHA is awarded set-aside funds, the PHA will be required to submit documentation to the Field Office establishing that the funds will be used for eligible operating subsidy purposes, and must receive Field Office approval prior to draw down.

For the purposes of this Notice, in determining a PHA's operating reserves amount, HUD will deduct the PHA's subsidy allocation adjustment, and exclusion requests approved pursuant to PIH Notice 2011-55 (the "reserve amount").

- Where a PHA received approval of an exclusion request (as described by Notice PIH 2011-55) and any needed corrections to the FDS are already incorporated into an FDS approved by FASS, in order to avoid double counting, the approved exclusion request will not be subtracted from the reserve balance.
- The operating reserve calculation described above can be found on Attachment A.

If the PHA meets both of the above criteria (the PHA received a subsidy allocation adjustment and the PHA's reserve amount is less than the minimum reserve level), the PHA will be eligible for funding from the set-aside, as further detailed below.

If the PHA does not meet both of the above criteria (the PHA did not receive a subsidy allocation adjustment or the PHA's reserve amount is equal to or above the minimum reserve level) the PHA will not be eligible for funding from the set-aside.

The amount that a PHA may be eligible to receive from the set-aside is limited to the lesser of the amount of the subsidy allocation adjustment, or the amount below the minimum reserve level.

4. HUD Determination of Financial Hardship and Funding Amounts

In an effort to maximize the impact of the \$20 million set-aside and target the assistance, as much as possible, to those with greatest financial need, HUD will prioritize funding awards as follows:

Priority 1: PHAs whose operating reserves amount is less than zero, (the "reserve amount below zero"). The reserve amount below zero shall be capped by the amount of the subsidy allocation adjustment.

Priority 2: PHAs whose operating reserves amount is below the minimum reserve level but greater than zero, (the "reserve amount below the minimum"). The reserve amount below the minimum shall be capped such that the reserve amount below the minimum plus the reserve amount below zero shall not be greater than the subsidy allocation adjustment.

The operating reserve calculation is in Attachment A to this Notice.

For any PHA with operating reserves below zero, the PHA shall be eligible for funding as Priority 1.

- To the extent the total eligibility for Priority 1 funding for all PHAs is greater than the amount of the \$20 million set-aside, HUD will provide funding for Priority 1 needs on a prorated basis. The proration factor shall be determined by dividing \$20 million by the total eligibility for Priority 1 funding for all PHAs. Each individual PHA's funding shall then be determined by multiplying the PHA's Priority 1 funding eligibility amount by the proration factor.

After calculating set-aside funding eligibility for Priority 1 PHAs, any remaining set-aside funding will be available to fund Priority 2 needs.

- Any PHA that qualifies for Priority 1 funding will, by definition, also qualify for Priority 2 funding. The full amount between \$0 and the PHA's minimum reserves level will be the amount of Priority 2 eligibility.
- To the extent the total eligibility for Priority 2 funding for all PHAs is greater than the amount of the \$20 million set-aside remaining after calculating Priority 1 funding, HUD will provide funding for Priority 2 needs on a prorated basis. The proration factor shall be determined by dividing the amount of the \$20 million set-aside remaining after awarding Priority 1 funding by the total eligibility for Priority 2 funding of all PHAs. Each individual PHA's funding shall then be determined by multiplying the PHA's total Priority 2 funding eligibility amount by the proration factor.

Where the \$20 million set-aside is sufficient to bring all eligible PHAs up to the minimum reserve level, no additional funding will be available from the set-aside, and the remaining funding will be distributed to all PHAs pursuant to the Operating Fund Formula.

See Attachment A for a template to use to calculate PHA operating reserves, adjust operating reserves for the subsidy allocation adjustment, and calculate Priority 1 and Priority 2 eligibility. See Attachments B1 and B2 to this Notice for examples of calculations of Priority 1 and Priority 2 eligibility.

5. Requesting Set-Aside Funding

HUD will e-mail all agencies that have approved financials for the above noted FYEs notifying them of their eligibility for funding from this set-aside.

In addition, HUD will publish eligibility calculations for all PHAs, via hardship eligibility tool, at:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/am/of/opfnd2012/allocationadjustment

To request set-aside funding the PHA ED must send an email request to mailbox 2012SetAside@hud.gov, with a copy to the local Field Office Director, within three weeks of the date of this Notice. The PHA's request must a) indicate that the PHA received an allocation adjustment, b) indicate that the PHA is experiencing financial

hardship directly related to that allocation adjustment and provide a narrative description of that financial hardship. The description should provide sufficient detail to establish that a hardship exists and that the hardship is directly related to the allocation adjustment. No additional financial information is needed, beyond the information already submitted with the PHA's financial statements.

For PHAs designated as financially troubled that do not have an FDS submission approved by HUD for the applicable FYE (see section 3. above), the PHA's ED must submit the following information requesting set-aside funding, via email, to mailbox 2012SetAside@hud.gov, with a copy to the local Field Office Director, within three weeks of the date of this Notice:

- Audited or unaudited financial statement (income statement and balance sheet) for their most recent FYE not later than December 31, 2011, referenced in Section 3 above;
- ED certification referenced in Section 3 above;
- Completed Attachment A supporting the amount of their request, referenced in Section 3 above;
- Narrative description of the financial hardship the PHA is experiencing as a direct result of the allocation adjustment, referenced above (No additional financial information is needed, beyond the unaudited/audited financial statements and completed Attachment A that the PHA is already submitting);
- Letter or memo from their Field Office Director as referenced in Section 3 above. The PHA must request the supporting letter/memo from the Field Office Director at least 5 working days in advance of the date by which the PHA must submit, in order to allow the field office sufficient time to assess the PHA's request and prepare the supporting letter/memo.

Within five weeks of the date of this Notice (two weeks after the PHA submission deadline), HUD will notify each PHA making such a submission of their eligibility and award amount, if applicable.

6. Moving to Work (MTW) Agencies

Pursuant to HUD's Federal Fiscal Year (FFY) 2012 Appropriations, Public Law 112-55, MTW agencies were included in the calendar year 2012 funding allocation adjustment. However, because of the flexibility MTW PHAs have in using different funding sources to address operating expenses, all MTW agencies received a pro-rata allocation adjustment with their peer group(s). Given the fungibility of funding sources available to MTW PHAs, no determination of "hardship" can be made. Therefore, MTW agencies are not eligible to receive funding from the \$20 million set-aside for PHAs that encounter a financial hardship as a direct result of the allocation adjustment.

7. Paperwork Reduction Act

The information collection requirements contained in this notice have been approved by the Office of Management and Budget 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 control number.

8. Further information

All questions from PHAs are to be referred to 2012SetAside@hud.gov, with a copy to the appropriate Field Office.

/s/

Sandra B. Henriquez, Assistant Secretary
for Public and Indian Housing