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

Special Attention of	**Notice** PIH 2008-17 (HA)
Public Housing Agencies	
Public Housing Hub Office Directors	Issued: March 25, 2008
Public Housing Program Center Directors	
Regional Directors	Expires: March 31, 2009
Field Office Directors	
Resident Management Corporations	Cross Reference:

SUBJECT: Guidance on Disposition of Excess Equipment and Non-Dwelling Real Property under Asset Management

1. Purpose

The purpose of this notice is to provide guidance to public housing agencies (PHAs) in the disposition of certain Public Housing Program assets to the Central Office Cost Center (COCC) under public housing asset management.

2. Background

Under 24 CFR part 990, subpart H, PHAs that own 250 or more dwelling rental units must convert to asset management (see PIH Notice 2008-16 (HA), issued March 25, 2008, regarding the election in Calendar Year 2008 for PHAs with between 250-400 units to be exempt from asset management). As part of that conversion process, PHAs must establish a COCC as the business unit within the PHA that is the recipient of fee income and other business activity. Fee income received by the COCC is not "program income" as defined by 24 CFR 85.25.

Also as part of the conversion to asset management, PHAs must assign the public housing balance sheet between the COCC and projects. (For more information on assignment of balance sheets, see Chapter 4 of the Supplement to PIH Notice 2007-9, issued April 10, 2007.) As part of this assignment process, certain assets that are no longer necessary for the operation of projects become assigned to the COCC. For example, the COCC may be assigned the copy machine and printer for the PHA's accounting department. Since these assets were originally purchased with program funds, PHAs have requested guidance on how they are to record them on their financial statements and whether they are to recognize any revenue from their sale or use as program income. This notice provides guidance on how PHAs may dispose of these assets to the COCC, without program recognition.

3. Disposition of Equipment or Reassignment of Equipment to the COCC

In the case of equipment, PHAs should comply with 24 part CFR 85.32(e). Specifically, when original or replacement equipment acquired under a grant or subgrant is no longer needed for the original project or program or for other activities currently or previously supported by a federal agency, disposition of the equipment will be made as follows:

(1) Items of equipment with a current per-unit fair market value of less than $5,000 may be retained, sold or otherwise disposed of with no further obligation to the awarding agency.

(2) Items of equipment with a current per-unit fair market value in excess of $5,000 may be retained or sold and the awarding agency shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the awarding agency's share of the equipment.

Accordingly, for per unit items with fair market values of less than $5,000 where the PHA deems the equipment no longer needed for the operation of projects, the PHA may retain the equipment within the COCC as non-program assets. The PHA should keep appropriate supporting documentation.

For per unit items with fair market values in excess of $5,000, the PHA can either reimburse HUD as per 24 CFR part 85.32(e)(2), or the PHA may request an exemption from these requirements for good cause under 24 CFR part 85.6(c). The PHA should include good cause for all such exceptions. The exception request package shall include a board resolution which authorizes the disposition or reassignment of the equipment and also includes the fair market value of the equipment, as well as any other supporting documentation necessary. This request shall be forwarded by the PHA to the local Public Housing Field Office Director who will then forward the package to Headquarters for a determination.

4. Disposition of Non-Dwelling Property or Reassignment of Non-Dwelling Property to the COCC

With respect to non-dwelling property, the PHA has two options:

Option 1: The PHA may request HUD's disposition approval under Section 18 of the United States Housing Act of 1937 (the Act) for a sale or transfer of the administrative building or vacant land to another entity, the requirements for which are included under 24 CFR part 970. The PHA would need to determine that the disposition is appropriate for reasons that are:

(1) In the best interests of the residents and the PHA; consistent with the goals of the PHA and the PHA plan; and consistent with the Act; or

(2) For property other than dwelling units, the property is excess to the needs of the public housing project or the disposition is incidental to, or does not interfere with, continued operation of a public housing project.

The PHA must dispose of the property for not less than fair market value (in which case there is no showing of commensurate public benefit required), unless HUD authorizes negotiated sale for reasons found to be in the best interest of the PHA or the federal government; or dispose of property for sale for less than fair market value (where permitted by state law), based on commensurate public benefits to the community, the PHA or the federal government justifying such an exception.

Unless waived by the Secretary for good cause, net proceeds from any disposition must be used to retire outstanding obligations issued to finance the original public housing project or modernization of the project. Any remaining proceeds must then be used for:

(1) The provision of low-income housing (as defined in the Act to mean dwellings assisted under the Act (public housing, section 8 housing, and homeownership programs assisted under the Act);

(2) The benefit of the residents of the PHA; or

(3) Leveraging amounts for securing commercial enterprises, on-site public housing projects of the PHA, appropriate to serve the needs of the residents.

The PHA must make the request for a disposition to the HUD Special Applications Center.

<u>Option 2</u>: The PHA may request approval from HUD to remove the Declaration of Trust from the property. Again, the PHA would need to provide good cause for the action and demonstrate that the property is no longer needed for the operation of public housing projects (for example, a central warehouse building is no longer needed given the transition to project-based management). Generally, the PHA would be required under 24 CFR part 85.31(c)(1) to reimburse HUD for the proportionate share of the fair market value of the property (based on the federal government's participation in the original cost of the property). However, the PHA could request an exception under 24 CFR part 85.6(c) from this requirement to reimburse the federal government for its equity in the project. The PHA would also need to provide good cause for the exception request.

Under Option 2, the PHA should prepare a request package that includes: (1) the request for removal of the Declaration of Trust (including good cause) and reassignment of the non-dwelling property to the COCC, (2) the request, if applicable, for an exception under 24 CFR part 85.6(c) to reimburse the federal government for its equity in the project (including good cause), and (3) a board resolution authorizing the actions. The board resolution should include an indication of the fair market value of the property, as well as a determination that the disposition or reassignment of the non-dwelling real property will not be detrimental to the operation of public housing for the PHA. In addition, the PHA must include the disposition or reassignment in their PHA Plan. This package should be sent to the local Public Housing Field Office Director who will then forward the package to Headquarters for a determination.

5. Additional Information

For additional information, please contact Gregory Byrne, Director, Financial Management Division, Real Estate Assessment Center, at telephone number 202-475-8632.

/s/

Paula O. Blunt, General Deputy Assistant Secretary
for Public and Indian Housing