

# ASSET MANAGEMENT E-NEWSLETTER

Issue 02 - March 2007



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## Special Edition on Administrative Reform



This issue of the e-Newsletter is dedicated to the topic of public housing administrative reform.

While the final rule on the Operating Fund Program (24 CFR Part 990) directs the conversion to management, it does not address all aspects of the organizational and business requirements related to transitioning public housing to a project-based model. Section 990.255(b) of the final rule, however, recognizes that changes in HUD's regulatory and monitoring programs will be needed to support public housing agencies (PHAs) as they undertake the conversion to asset management.

To assist PHAs in their planning efforts, this issue of the e-Newsletter offers general information on upcoming Departmental initiatives to streamline the administration of the public housing program, including timeframes for implementation. ♦

## A Message from the Assistant Secretary...



To assist with the conversion to asset management, the Office of Public and Indian Housing (PIH) is identifying areas where we can lessen administrative requirements while maintaining our essential oversight responsibilities. We are taking a hard look at the data we collect, how we collect it, the frequency of collection, and what we do with that data. We are also examining all procedural requirements of PHAs.

We want, as much as legally and practically possible, to level the administrative playing field between PHAs and operators of Federally-subsidized housing, upon which operating funding eligibility is now calculated. As indicated in this e-Newsletter, a number of administrative requirements are statutory. However, there are still many areas where meaningful reform can be achieved. For example, while we cannot waive the statutory requirement for PHAs to submit Annual Plans, we are moving to streamline the plan submission process (read more on page 3).

We look forward to working collaboratively with PHAs on this important aspect of our move to asset management. We invite you to share your comments on these plans. ♦

## Background

The final Operating Fund rule introduces two major changes to the public housing program. First, it establishes a new formula for determining operating subsidies. Second, it requires the conversion to asset management for PHAs with 250 or more units. In both areas, the norms and practices of private, multifamily housing play a large hand.

Since subsidy eligibility under the new formula is, essentially, based on operating costs in Federally-subsidized housing, and since PHAs are required to adopt management practices that mirror those in multifamily housing, the Department is examining anew public housing's administrative requirements. What is the nature and source of these requirements? Are they also required of operators of Federally-subsidized housing? Are they statutory? Do they support the transition to asset management? Can they be streamlined without sacrificing essential oversight or other legitimate public policy efforts? ♦

## Who is Impacted by These Reforms?

Although only PHAs with 250 or more public housing units are required to convert to asset management, the information contained in this e-Newsletter applies to all PHAs in that some proposed actions address crosscutting program or regulatory requirements. The information in this e-Newsletter does not apply to Indian and tribally designated housing entities or local tribal governments. ♦

## Types of Administrative Requirements

For ease of understanding, public housing's administrative requirements can be sorted into two groups: procedural requirements and reporting requirements.

- ❖ **Procedural requirements** govern a PHA's policies or procedures, e.g., rules regarding tenant eligibility or rent. Mostly, these procedural requirements take the form of regulations that are published in the Federal Register as a result of notice-and-comment rulemaking. Clearly, HUD has greater flexibility, in the area of administrative reform, with those requirements that are non-statutory in nature.
- ❖ **Reporting requirements** include various requests for PHA data. For example, PHAs must submit to HUD information regarding the status of each unit (occupied, vacant undergoing modernization, etc.) via the Public and Indian Housing Information Center (PIC). Similarly, PHAs must use the Line of Credit Control System (LOCCS) to report on obligations and expenditures under the Capital Fund Program. The collection of such data should be essential for effective program monitoring or for other essential policy purposes. Under the Paperwork Reduction Act (PRA), any required reporting or data collection effort must be captured under a current OMB PRA control number.

In the sections that follow, we review planned reforms for both groups of requirements. ♦

## Procedural Reforms

The HUD regulations governing public housing can be found in Title 24 of the Code of Federal Regulations (Title 24 covers all HUD programs). [Exhibit 1](#), included at the end of this e-Newsletter, lists the main parts of Title 24 that are applicable to PHAs. For each part, there is a brief description of the changes that are proposed, where applicable, and associated timeframes for action. Where no action is anticipated, the reason is stated.

As noted in the exhibit, there are a number of regulations where no action is anticipated because the regulation essentially reflects or amplifies statutory language. There are other regulations where no action is anticipated because the specific rule may have recently been revised or because the rule is already significantly streamlined. In short, the areas where regulatory reform is most likely over the next year, either because the source of the regulation is non-statutory or the policy does not align with norms in HUD's subsidized housing programs, include the following:

- ❖ PHA Annual and Five Year Plans;
- ❖ Tenant Participation;
- ❖ PHA Grievance Procedures;
- ❖ PHA Inspections;
- ❖ Public Housing Assessment System (PHAS);
- ❖ Capital Fund Administration; and
- ❖ General provisions governing PHA-owned or leased projects. ♦

## Reporting Reforms

PHAs are required to submit various data to HUD on the operation of their public housing program. The following is a list of planned system/data collection reforms that will facilitate, both for PHAs and HUD, the conversion to asset management.

### PHA Annual and Five-Year Plans

HUD expects to issue a revised Annual Plan and Five-Year Plan template in March 2007 that will streamline the submission and review process. Although the U.S. Housing Act of 1937 (the Act) prescribes certain elements of the plan, the Act provides HUD with the authority to determine plan format. Much of this streamlining will be accomplished through "incorporation by reference." For example, the current Annual Plan template requires PHAs to submit information on their Community Service Policy. Rather than submit this information each year, the revised template will allow PHAs to indicate where that information is publicly available, e.g., on the PHA's web site.

While not to be included in the upcoming revamping of the Annual Plan template, HUD is also considering whether to separate the Capital Fund submission requirements from the Annual and Five-Year Plan submissions. Because the Capital Fund Program funding cycle does not coincide with PHA fiscal years, PHAs today must submit amended Capital Fund budgets after final awards are determined. By separating the submission requirements, PHAs would have the option to submit Capital Fund budgets after notification of their funding amount rather than with their Annual and Five-Year Plan submissions.

### **Subsidy and Grant Information System (SAGIS)**

HUD is implementing a new single system of e-grants, called SAGIS, that will allow PHAs to request and obligate funds electronically for all programs, including Operating Subsidy, Capital Fund grants, Section 8 housing assistance payments, and the various other PIH grants. This system, which will be phased-in over the next two years, will greatly expedite the processing of subsidies and grants for PHAs. One of the first applications to be implemented will be the calculation and disbursement of operating subsidies, planned for later this year.

### **Matching of Capital Fund Budget Line Items (BLIs) with the Financial Data Schedule (FDS)**

Currently, PHAs report obligation and expenditure information regarding their Capital Fund grants in LOCCS using BLIs that do not match the FDS chart of accounts in the Financial Assessment Subsystem (FASS) of PIH-REAC. By late 2007, HUD anticipates that the BLI structure will be conformed to the FDS chart of accounts. Conforming all line items will eliminate the PHA need to maintain two accounting structures. A larger discussion of this subject will be included in a future issue of the e-Newsletter.

### **Public and Indian Housing Information Center (PIC)**

PIC is the system that HUD has developed to obtain data on buildings, units, residents, and other key PHA information. HUD has embarked on an extensive review of this system in an effort to reduce reporting redundancies and to allow for greater ease of use.

**Continued on Next Column...**

Over the past year, PHAs were required to identify their management clusters by asset management projects, or AMPs. These AMPs are to be the new management focus of HUD. In 2007, HUD will issue instructions on how PHAs can make modifications to their AMPs, when appropriate. Additionally, HUD will align all of the reporting systems according to AMPs, a process to be known as "reformulation." Once completed, PHAs will no longer need to report data on "old" development numbers.

### **HUD Form 50058**

The HUD Form 50058, Family Report, is used by PHAs to collect and submit (electronically) tenant and unit data to HUD. Operators of multifamily housing must also transmit tenant and unit data, which is done through HUD Form 50059, Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures. Many PHAs believe that the 50058, which is a much longer form, requires more time to complete and is more difficult to transmit successfully. In response to these concerns, the Department will, in 2007, undertake a complete review of the 50058. As part of this process, the Department will involve PHAs, public housing IT providers, and other interested and affected parties. However, because modifications to the HUD Form 50058 require changes in PHA IT systems, any resulting change to the 50058 is not anticipated to be implemented until 2008. Clearly, this analysis will include a detailed comparison of the data elements and functionality between the 50058 and the 50059.



## Public Housing Assessment System (PHAS)

HUD is preparing for changes within the Public and Indian Housing - Real Estate Assessment Center (PIH-REAC) to conform the PHAS system to the norms and standards of performance assessment in multifamily housing. Briefly, HUD will: (a) conduct and track PIH-REAC physical inspections by AMPs, (b) modify the electronic submission of the FDS to support the collection of project-level data; (c) replace a PHA's current Management Assessment Subsystem (MASS) submission with an on-site review (similar to management assessments in multifamily housing); and (d) establish a new "integrated" assessment based on the newly developed PHAS indicators. This overhaul is expected to simplify the current scoring methodologies. Also, by utilizing data either already contained in HUD systems or collected through on-site management reviews (see below), HUD will significantly reduce PHA submission requirements.

## Management Reviews

One of the major reporting "burdens" cited by PHAs has to do with HUD's method of management reviews. Currently, PHAs can be subject to multiple "subject-specific" reviews. For example, a PHA might undergo a Rental Integrity Monitoring (RIM) review, a Procurement Review, and a PHAS Confirmatory Review – all in the same year. As part of the conversion to asset management, PIH will refocus its system of public housing management reviews.

For its Federally-subsidized housing programs, HUD (or a third-party agent) conducts a comprehensive management review of each project, generally annually. This review is completed using HUD Form 9834, Management Reviews of Multifamily Projects.

As HUD revises PHAS to conform to standards in multifamily housing, an evaluation of a PHA's management of an asset will be conducted during a scheduled on-site management review. These on-site management reviews would replace many of the subject-specific reviews that currently occur. Moreover, it is anticipated that moving to a system of on-site management reviews will eliminate the need for PHAS "confirmatory" reviews (HUD will no longer need to "confirm" what a PHA has submitted since the reviews will replace PHA submissions).

With the conversion to asset management, it is important to note that any "fee income" that PHAs earn for the operation of their programs (management fees, bookkeeping fees, and other fee-for-service) is not considered "program income." Consequently, fee income will not be subject to federal review, greatly contributing to the desired streamlining of PHA compliance reviews. ♦

### Important Dates

Deadline for Year One submission of stop-loss applications – **April 15, 2007**

**Continued on Next Column...**

## Important Notes Regarding These Reforms...

Although desirous of the need to provide PHAs with notification of anticipated administrative actions to support asset management, it is not possible to determine the precise timing of events associated with these planned activities. Additionally, events may occur that result in the need for new actions or the removal of proposed ones. For this reason, HUD intends to issue a six-month update on administrative reform. It is also important to remember that HUD:

- ❖ Cannot modify a requirement that is statutory. For example, HUD cannot eliminate the requirement for PHAs to allow residents to have pets because this requirement is statutory; and
- ❖ Must use the rulemaking process to change a requirement or process that is codified in regulation. For example, to modify the requirements surrounding resident participation, HUD must modify the underlying regulation. ♦

## Summary

As part of the conversion to asset management, HUD recognizes the need for accompanying administrative relief, particularly where existing requirements do not conform to the norms in multifamily housing and where there is no statutory basis for the requirement. The Department's goal is to establish, within statutory parameters, an administrative framework for public housing that is substantially equivalent to that which exists in HUD's Federally-subsidized portfolio. ♦

## Related Training

The following is information related to HUD-sponsored training in asset management. *Please note training content is subject to change.*

- ❖ **Changes in Financial Management and Reporting Requirements Under the New Operating Fund Rule** – The live training schedule is being revised to coincide with re-issuance of guidance in PIH Notice 2006-33. Please check for updates at the registration website by clicking [here](#). An online version of the training will also be available in March.
- ❖ **PHA Asset Management Training** – HUD is developing a 2-to-3 hour training module for PHA boards to introduce them to the topic of asset management. Primary topics will cover Project-Based Management, Project-Based Budgeting, and the PHA as a Management Company. This training will be available this spring. ♦

## Resources and Useful Links

For more information, please visit the HUD-PIH Asset Management Website at by clicking [here](#). Click on the following hyperlinks for detailed information about specific topics of interest:

- ❖ [AMP Groupings](#)
- ❖ [Financial Management](#)
- ❖ [Operating Fund Program](#)
- ❖ [Stop-Loss](#)
- ❖ [PIH Notices](#)

## What's New on the Website?

- ❖ [Asset Management e-Newsletter – Issue 01, February 2007](#)
- ❖ [Transition Analysis Report](#)

## Give Us Your Ideas

Do you have an article idea, question, or comment for the editor? The Office of Public and Indian Housing (PIH) is the editor of this monthly e-Newsletter. Please send all inquiries by email to

[assetmanagementnewsletter@hud.gov](mailto:assetmanagementnewsletter@hud.gov). ♦

## Exhibit 1: Review of Major Public Housing Program Regulations within Title 24 of Code of Federal Regulations<sup>1</sup>

Part	Title	Discussion
5	General HUD Program Requirements; Waivers	<p>This part establishes the general program requirements relating to the definition of family income, admission of pets, restrictions on assistance to non-citizens, etc.</p> <p>HUD proposes to refine unclear sections of these regulations, strengthen internal controls in HUD programs, and facilitate full implementation of the upfront income verification process to streamline the income verification process and deter tenant fraud. It is anticipated that a proposed rule will be published in the 4<sup>th</sup> quarter of CY 2007.</p>
85	Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments	<p>This part establishes the general administrative requirements relating to cost principles, procurement, and other matters. These requirements apply to all recipients of HUD assistance who are state, local or Federally recognized Indian tribal governments, not just PHAs.</p> <p>No action is proposed on this Departmental-wide regulation at this time. However, in a separate action, HUD anticipates issuing in the 1<sup>st</sup> quarter of CY 2007 a revised procurement handbook for PHAs that will streamline and clarify the application of 24 CFR § 85.36. This revised handbook will emphasize the Federal \$100,000 small purchase threshold and institute a new micro-purchase threshold of \$2,000, below which only one reasonable quote is required. The new procurement handbook will also recognize that income PHAs generate pursuant to 24 CFR §990.280 through the central office cost center is not considered Federal program income, thereby providing PHAs with greater flexibility in the use/expenditure of this fee income and eliminating the need for HUD review.</p>
135	Economic opportunities for low- and very-low income persons	<p>HUD is currently working on a general update of this regulation. As part of that process, HUD is examining, as recommended by the Harvard Cost Study, the adoption of a threshold to \$100,000 for application of Section 3 for any individual procurement action. Such action would make the application of Section 3 for public housing more consistent with the requirements for other HUD subsidized housing programs. The Office of Fair Housing and Equal Opportunity (FHEO) is the program office responsible for this regulation.</p> <p>No date is established for publication of a revised rule at this time.</p>
901	Public Housing Management Assessment Program	PHMAP has been replaced by the Public Housing Assessment System (PHAS) at 24 CFR part 902. At the time a final revised PHAS is effective (which is anticipated in early 2008), part 901 will be deleted as obsolete.
902	Public Housing Assessment System (PHAS)	<p>This part establishes a four-part assessment system for PHAs.</p> <p>HUD intends to modify the PHAS rule to conform to the assessment norms in multifamily housing, which, among other actions, should greatly minimize PHA reporting requirements/submissions. As part of this revision, HUD is also considering incentives for high performing PHAs, including frequencies for PHA unit inspections. HUD anticipates publishing a proposed revised PHAS rule by the 3<sup>rd</sup> quarter of CY 2007.</p>
903	Public Housing Agency Plans	This part establishes the requirements for the PHA Annual and Five Year Plans.

<sup>1</sup> Excludes Parts 982 and 985, pertaining to Housing Choice Voucher Program.

Part	Title	Discussion
		<p>HUD intends to amend the regulation to streamline the Annual and Five-Year Plan processes. HUD also proposes to amend these regulations to implement required revisions to the PHA plans in accordance with the Violence Against Women's Act (VAWA) statute. It is anticipated that the proposed changes will be published in the 3<sup>rd</sup> quarter of CY 2007.</p> <p>In a separate action, HUD will issue a PIH notice that substantially streamlines the Annual and Five Year Plan templates. (Changes in the regulation are not required to modify the plan templates).</p>
904	Low Rent Housing Homeownership Opportunities	<p>This part mostly provides requirements pertaining to the Turnkey III homeownership program.</p> <p>No action is proposed at this time.</p>
905	The Public Housing Capital Fund Program	<p>This part establishes the Capital Formula and penalties for slow obligation and expenditures.</p> <p>HUD intends to publish a proposed Capital Fund rule at part 905 that will include, in addition to the formula components, all general program requirements and applicable development (from part 968) and modernization requirements (from part 941). It is anticipated that the proposed Capital Fund rule will be published by the 4<sup>th</sup> quarter of CY 2007.</p>
906	Public Housing Homeownership Programs	<p>This part establishes the requirements for public housing homeownership programs.</p> <p>No action is proposed.</p>
908	Electronic Transmission of Required Family Data	<p>This part largely establishes the requirements for transmission of 50058 forms (electronic). HUD requires this information for monitoring purposes. No change is proposed at this time in this regulation. However, in a separate action, HUD intends to streamline the HUD Form 50058 (see discussion on page 4 of this e-Newsletter). HUD is also seeking ways to improve PIC reporting.</p>
941	Public Housing Development	<p>This part establishes the requirements for the development of public housing.</p> <p>HUD issued a proposed rule on December 27, 2006 (71 FR 78014), to simplify and streamline the application, review and approval process for participation in mixed-finance public housing development programs, including HOPE VI. The change would significantly reduce the documentation submission burdens on PHAs while still enabling HUD to ensure that PHAs meet the program requirements.</p> <p>Additionally, to continue to encourage the formation of new and innovative public and private partnerships to ensure long-term sustainability of public housing developments, and the leveraging of public and private resources to transform communities, HUD expects to publish in the 1<sup>st</sup> quarter of CY 2007 a "PHA Affiliates" notice. HUD intends to use this notice to clarify existing development related requirements applicable to administrative fees and development cost allocation, prohibition of conflicts of interest, the procurement of related entities, and disposition and encumbrance of public housing property.</p> <p>All of the requirements in this part will be included in the proposed rulemaking for 24 CFR part 905, at which time this part will be removed (anticipated by the 3<sup>rd</sup> quarter CY 2007).</p>
943	Public Housing Agency	<p>This part establishes the requirements for PHAs to form consortiums.</p>

<b>Part</b>	<b>Title</b>	<b>Discussion</b>
	Consortia and Joint Ventures	PHA consortiums are voluntary.  No action is proposed.
945	Designated Housing – Public Housing Designated for Occupancy by Disabled, Elderly, or Disabled and Elderly families	This part establishes the requirements under which PHAs can designate units and projects as elderly only, non-elderly disabled only, or a combination of these two populations.  This part is being removed because the designated housing requirements are now contained in Notice PIH 2005-2 (HA), which has been extended by Notice PIH 2007-1 (HA). The Notice also incorporates the requirements of Section 10(a) of the Housing Opportunity Program Extension Act of 1996.
960	Admission to, and Occupancy of, Public Housing	This part establishes the requirements governing admission and continued occupancy of public housing, including site-based waiting lists.  HUD proposes to amend these regulations to implement revised admission requirements in accordance with the Violence Against Women's Act (VAWA) statute.  No additional action is proposed because this regulation either mirrors the statute or reflects Fair Housing requirements.
963	Public Housing – Contracting with Resident-Owned Businesses	This part establishes the requirements for contracting with resident-owned businesses, providing certain administrative relief from general procurement requirements.  No action is proposed because contracting with resident owned businesses is voluntary.
964	Tenant Participation and Tenant Opportunities in Public Housing	This part establishes requirements governing tenant participation in public housing.  In a proposed rulemaking action, HUD intends to eliminate restrictive provisions related to the organization and recognition of tenant councils, tenant council funding matters, and related actions. HUD anticipates issuing this proposed rule by the 3 <sup>rd</sup> quarter of CY 2007.
965	PHA-Owned or Leased Projects – General Provisions	This part establishes various requirements related to HUD-determined wages, insurance, lead-based paint, energy audits, energy performance contracting, metering utility allowances, surcharges, surcharge relief, physical conditions and fire safety.  HUD intends to propose rulemaking that would make this part consistent with part 990, the Energy Act of 2005, and the transition of public housing to asset management. Publication of the proposed rulemaking is anticipated by the 4 <sup>th</sup> quarter of CY 2007.
966	Public Housing Lease and Grievance Procedures	This part establishes the requirements governing resident leases and grievance procedures.  In a proposed rulemaking, anticipated to be published by the 3 <sup>rd</sup> quarter of CY 2007, HUD intends to remove restrictive language regarding grievance procedures. Additionally, HUD proposes to amend these regulations to implement revised lease requirements in accordance with the Violence Against Women's Act (VAWA) statute.  No action is proposed on other lease provisions since they are mostly statutory.
968	Public Housing Modernization	This part establishes the public housing modernization requirements

Part	Title	Discussion
		These requirements will be part of the proposed rulemaking for 24 CFR part 905, at which time this regulation will be removed (anticipated by the 3 <sup>rd</sup> quarter of CY 2007).
969	PHA-Owned Projects – Continued Operation as Low-Income Housing after Completion of Debt Service	This part establishes the 10-year requirement that ACC units remain affordable after last use of Operating Funds.  No action is proposed in that these rules reflect the statute.
970	Public Housing Program – Demolition or Disposition of Public Housing Projects	This part establishes the requirements for the demolition and disposition of public housing, which implement the statutory requirements.  No action is proposed. A revised rule was published October 24, 2006 (71 FR 62354). In addition, HUD has expedited the processing of demolition and disposition applications submitted in accordance with the provisions of this rule (applications are routinely processed within 90 days).
971	Assessment of the Reasonable Revitalization Potential of Certain Public Housing Required by Law	This part establishes the requirements for assessments of certain distressed public housing projects.  No action is proposed as these provisions are largely statutory.
972	Conversion of Public Housing to Tenant-Based Assistance	This part establishes the requirements for PHAs who want voluntarily to convert public housing to vouchers. A revised final rule was published on March 21, 2006 (71 FR 14327).  No further action is proposed.
984	Section 8 and Public Housing Family Self-Sufficiency Program	This part establishes the requirements for the family self-sufficiency program. It pertains only to those PHAs that received incremental public housing or section 8 funding from 1993 through 1998.  No action is proposed.
990	The Public Housing Operating Fund Program	This part establishes the rules governing the Operating Fund program, including the provisions regarding a PHA's conversion to asset management.  On November 24, 2006, the Department published proposed rules that would adjust the transition schedule for decliner agencies. A final rule is anticipated in early 2007. Additionally, the Energy Policy Act of 2005 amended section 9(c)(2)(C) of the U.S. Housing Act of 1937 to allow PHAs to enter into 20-year energy performance contracts. This proposed rule, anticipated to be published in the 2 <sup>nd</sup> quarter of CY 2007, would amend 24 CFR 990.185 to increase permissible terms of an energy performance contract from 12 up to 20 years, eliminating the need for waivers.  Finally, HUD intends to publish a proposed rule, expected by the 4 <sup>th</sup> quarter of CY 2007, that will (1) allow small PHAs that convert to asset management to avoid the need to establish a central office cost center, and (2) establish reasonable management fees.