



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

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**Special Attention of:**

Public Housing Agencies;  
HUD Directors of Public Housing;  
PIH Program Center Coordinators;  
Public Housing Division Directors;  
Regional Directors; Regional  
Environmental Officers; Field  
Environmental Officers; Regional  
Energy Coordinators

**NOTICE: PIH-2011-36 (HA)**

Issued: July 8, 2011

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**Cross Reference:**

24 CFR § 85.36;  
24 CFR § 965.305;  
24 CFR § 965.308;  
24 CFR § 965.506  
24 CFR § 965.507  
24 CFR § 990.170;  
24 CFR § 990.175;  
24 CFR § 990.180;  
24 CFR § 990.185,  
24 CFR § 990.190.  
PIH Notice 2008-22  
PIH Notice 2009-16

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**Subject: Guidance on Energy Performance Contracts**

- 1. Purpose.** This notice serves to reinstate and update the content of PIH Notice 2009-16 and provide supplementary guidance on financial incentives to promote energy conservation. This Notice remains effective until amended, superseded, or rescinded.
- 2. Applicability.** This notice applies to public housing and provides guidance under the Public Housing Operating Fund Program pursuant to 24 CFR Part 990 and Energy Performance Contracts (EPCs) pursuant to 24 CFR Part 965, Subpart C.
- 3. Background.** The Public Housing Operating Fund Program provides funds for the operation and management of public housing. Section 9(e)(2)(c) of the United States Housing Act of 1937 (1937 Act) authorizes Public Housing Agencies (PHAs) to “receive the full financial benefit from any reduction in the cost of utilities or waste management resulting from any contract with a third party to undertake energy conservation measures

(ECMs) in one or more public housing projects.” Energy Conservation Measures include improvements to other utilities such as water and gas. Under 24 CFR 990.185, PHAs may qualify for conservation incentives when undertaking ECMs that are financed by an entity other than HUD.

The Energy Policy Act of 2005, Section 151, and the Consolidated Appropriations Act of 2008, Section 229, amended the 1937 Act with respect to energy conservation in public housing. The Department issued an Interim Rule (Federal Register Notice FR-5057-I-01), effective November 17, 2008, that made conforming amendments to the regulations of the Public Housing Operating Fund Program to reflect these statutory amendments. Effective February 25, 2009, the Department issued a Final Rule (Federal Register Notice FR - 5057-F-02), accordingly:

- The maximum term of an EPC between a PHA and an entity other than HUD may be up to 20 years; and
- An existing EPC may be extended, without re-procurement of energy performance contractors, to a period of no more than 20 years, to allow additional ECMs.

#### **4. Energy Performance Contracting.**

Energy Performance Contracting is a financing technique that uses energy/utility cost savings from reduced energy consumption to repay the cost of installing ECMs. HUD encourages PHAs to employ innovative approaches such as EPCs to achieve programmatic efficiency and reduce utility costs, particularly as PHAs transition to asset management.

The term Energy Services Companies (ESCOs) refers to energy engineering firms as well as other energy engineering consultants hired by the PHA to undertake part or all of an energy/utility project. The term EPC throughout this notice will be used to describe both ESCo and PHA self-developed energy/utility retrofit projects. ECMs may be financed several ways:

- By a loan from a bank, utility or governmental entity;
- Management of costs under the EPC; or
- With a shared savings agreement with a private energy service company.

When using HUD’s conservation incentives, the PHA assumes the performance risks for the implemented ECMs. These risks can be minimized through proper understanding and use of Measurement and Verification (M&V) techniques.

When a PHA uses an ESCo, the ESCo prepares an Investment Grade Energy Audit (IGEA), which is used to identify where ECMs can produce savings that exceed the cost of installation. An IGEA is needed whether the EPC is pursued in partnership with an ESCo or the PHA develops the EPC itself. When a PHA does not use an ESCo, the IGEA must be prepared by either the PHA, or by a consultant hired by a PHA. Because of the skill involved in preparing an IGEA, HUD recommends that a PHA hire a consultant to prepare an IGEA.

With an ESCo, the projected energy cost savings can be guaranteed over the term of the financing. PHAs should be aware that guaranteed savings, shared savings, etc., are negotiable provisions in the contract.

The typical ESCo guarantee calculations are consumption based. However, some ESCos may incorporate consumption multiplied by a utility rate. Some guarantees, for example, will provide sufficient aggregate cost savings to pay for the debt (project costs), provided the cost savings calculations are performed at established use and rate (i.e. floor rate) using formulas and benchmarks established in the contract. The guarantees normally include protections for the ESCo against factors beyond the ESCo's control that could have a detrimental impact on savings. These conditions often include, but are not limited to:

- Floor rates (minimum utility rates below which savings guarantees become conditional),
- Heating degree day adjustments,
- Occupancy adjustments, and
- Adjustments for increased consumption associated with other capital improvements not associated with the EPC.

PHAs should carefully review the terms and conditions of any savings guarantee provided by an ESCo (e.g. current and projected rate conditions) and should consider how the PHA's guarantee relates to the particular subsidy incentives being employed. To minimize risk, PHAs should strive to obtain a guarantee that provides an acceptable level of security to the PHA and that is based upon the amount of savings projected.

A PHA with a self-developed project can retain an energy engineering firm and may purchase an insurance policy to cover its risks. Contract and policy language should be clear, articulating under what conditions losses are collectable under the contract. The IGEA and insurance costs are eligible project costs.

ECMs may include, but are not limited to, the following:

- Energy and water-efficiency improvements;
- Mechanical, electrical, and plumbing upgrades (boilers, furnaces, etc.);
- Thermostatic controls, including programmable thermostats;
- Improvements to building envelope design and condition (air sealing, insulation, roof replacement, windows, storm doors, vent dampers, etc.);
- Lighting and lighting controls;
- Fuel conversions;
- On-site utility/energy distribution systems;
- Moisture-sensing irrigation systems and controls; and,
- On-site renewable energy and high-efficiency technologies (solar panels, wind turbines, geothermal systems, cogeneration, etc.)

While metering at the unit level after the installation of ECMs can often encourage reduced consumption through behavioral adjustments in the resident, meters may not be the sole ECM of an EPC, nor should meters be considered the primary ECM of an EPC. Meters measure consumption but do not directly reduce consumption. The use of meters, however, in concert with ECMs (low flow shower heads and toilets, etc.) is encouraged. Metering at the unit level after the installation of ECMs can often save significant utility-related costs through behavioral adjustments in the user.

Replacing energy and utility conduits does not directly reduce energy consumption, and should not be considered a primary energy conservation measure. However, if the conduits are connected to a system that is being replaced or modified as an ECM, repair or replacement of the conduits may be an eligible expense, such as the repair or replacement of water supply pipes. Such measures will need to be supported with documentation, and are subject to HUD approval.

##### **5. HUD's EPC Incentives.**

A principal advantage of the use of HUD's EPC incentives is that utility savings may be used in place of Capital Funds to finance energy improvements. HUD's incentives offer PHAs the option to direct their Capital Funds to more emergent and long-term modernization efforts. Traditional Operating Funds may be directed to operational and management expenses or emergencies. Reduced operating, maintenance and utility costs have a favorable impact on operating ratios and enhance a PHA's credit rating for private investments.

Under an EPC, the PHA may propose to HUD to follow one or more of the EPC incentives, provided that the frozen rolling base, add-on subsidy and resident paid utility subsidy do not apply to the same ECMs. The frozen rolling base and the add-on subsidy incentives, however, cannot be combined within a single utility meter. HUD must approve the use of the incentives, including the length of the contract period. The following incentives are offered:

1. Consumption Reduction Incentives
  - a. Frozen Rolling Base Incentive (authorized under 24 CFR § 990.185(a)(1)),
  - b. Add-On Subsidy Incentive (24 CFR § 990.185(a)(3) and 990.190(b)); and
  - c. Resident-Paid Utility Incentive (24 CFR § 990.185(a)(2)).
2. Rate Reduction Incentive (24 CFR § 990.185(b)).

To Qualify for EPC incentives, the PHA must:

1. Finance the energy conservation measures by an entity other than HUD; and
2. Ensure that energy savings are sufficient to cover all debt service related to the EPC project costs. In an add-on subsidy incentive, the Operating Fund Benefit (OFB) that is provided a PHA under 24 CFR § 990.170(c) cannot be counted in the EPC cash flow. The OFB may, however, be used for any eligible Operating Fund expenses.

## 5.1 Frozen Rolling Base

A PHA may request that HUD freeze its pre-EPC Rolling Base Consumption Level (RBCL) following the installation of ECMs so that the PHA can retain the savings from the decreased energy consumption for the term of the contract. The frozen base will be the RBCL in effect at the time of the field office approval of the final project plan or Energy Services Agreement (ESA). The RBCL will be frozen starting the first funding year after completion of the work and will remain frozen through the duration of the contract. The funding period for the frozen rolling base incentive is from July 1 through June 30 of a given calendar year.

### 5.1.1 HUD Approval Requirements

For HUD approval of the frozen rolling base incentive, the PHA must submit the following:

1. Cost summary sheet showing ECMs by project, funding type and measurement and verification (M&V) type (the types of M&V are detailed in HUD's M&V guidance, available on the website indicated at the end of this Notice),
2. Detailed utility baseline data summary sheet showing the RBCL and any adjustments to the data, and
3. Cash flow, showing:
  - a. That the energy savings are sufficient to cover the project costs, including replacement costs.
  - b. That 75 percent of the annual energy savings are utilized for payment of the project costs, i.e. cost of improvements.

Project costs can include but are not limited to: construction management and administration, equipment, hardware, systems software, financing, costs to control and monitor consumption, project design and development costs, training costs directly related to the maintenance and resident education on energy conservation, and operation of newly installed equipment.

#### 5.1.2 Annual Reporting Requirements

The PHA must report the following to HUD annually by April 30<sup>th</sup> of each year:

1. Provide documentation to support that at least 75 percent of the energy savings is being utilized as payment for the project costs. If less than 75% of the savings is used for debt service, HUD will retain the amount of the difference by reducing the project's subsidy by that amount.
2. Provide documentation that identifies energy conservation measures installed with HUD funds (e.g. Capital Fund Program) while the RBCL is frozen. HUD will adjust the frozen base, limiting the cost savings retained by the PHA to that which is a result of the EPC-funded ECMs. The PHA is to provide projected consumption reductions for all energy conservation measures installed with HUD funds.
3. Provide a copy of the ESCo prepared M & V report for all ESCo developed contracts.

### 5.1.3 Retained Savings Disposition

PHA retained EPC energy/utility savings at a project may be used as follows:

- PHA may use the full amount of the remaining savings for any eligible operating expense.
- For payment of the EPC debt service at other projects under the same EPC contract.
- To address additional energy or Green improvements by expanding the current project.
- Acceleration of debt service on the existing project, if permitted under the financing contract.

### 5.2 Add-on Subsidy

An Additional Operating Subsidy (or “add-on”) is an increase in total operating subsidy eligibility provided by HUD as a conservation incentive, as described in 24 CFR § 990.185(a)(3)(i). The additional subsidy is for amortization of the loan of the EPC and other direct costs related to the conservation project during the term of the contract.

Since the add-on is limited to the lesser of project costs or savings, PHAs will not retain any of the savings associated with over-performance of ECMs (i.e. savings generated in excess of those needed to match project costs). However, project costs can be increased to add ECMs or project phases to capture these savings. HUD approval is required for a project expansion.

The frozen base and add-on incentives associated with PHA-paid utilities are equally affected by the proration of subsidy eligibility, as is the entire Operating Fund formula. ESCo savings guarantees cannot be expected to cover this funding risk, so HUD encourages PHAs to allow for a reasonable amount of excess savings to mitigate this risk.

Any approved energy conservation incentive, as is the entire Operating Fund Formula, is subject to annual HUD proration. In the event of subsidy proration, the PHA’s year-end savings analysis report will only have to document savings for the amount of the add-on incentive actually received in determining any subsidy offset pursuant to 24 CFR 990.185(a)(3)(iii). The add-on subsidy is used to amortize the project costs of the ECM(s) over time, whether those project costs accrue to a bank

loan amortization or to pay annual service fees. In addition to receiving the add-on subsidy, the PHA retains project cost savings in accordance with 24 CFR § 990.170 as the RBCL continues to be calculated, following 24 CFR § 990.180. These cost savings are not part of the Add-On EPC incentive and cannot be used in the cash flow for the existing project costs or other contract payments.

The funding period for the add-on subsidy is from January 1 through December 31 of a given calendar year. The PHA may request a partial year add-on subsidy in the initial year of the project. The actual annual savings must be sufficient to cover the project costs of the contract, e.g., annual amortization of debt and any contractor service payments in the same calendar year as the request.

Any shortfall between the actual savings and the add-on subsidy funded for that funding cycle (prorated amount if applicable) will be taken from the next year's subsidy request in accordance with 24 CFR § 990.185(a)(3)(i). Section 14 discusses how to calculate costs and savings on the project level under asset management. A savings report (M&V report) must be provided to the Field Office for review by April 30<sup>th</sup> of each calendar year. This savings verification report will compare the energy savings realized for the add-on subsidy approved, for the same time period, to determine if an offset against the PHA's operating subsidy eligibility for the PHA's next funding cycle is necessary pursuant to 24 CFR § 990.185(a)(3)(iii). HUD may require that a PHA hire an independent third party consultant to validate all stipulated energy savings that are funded by the add-on subsidy incentive. This policy is further defined in section 5.2.2 (2) below.

The burden is on the PHA to coordinate with HUD to ensure that various project periods such as the construction period, financing amortization period and add-on subsidy approval term (HUD incentives period) are coordinated to maximize savings, sufficient to amortize the project costs.

#### 5.2.1 HUD Approval Requirements

For HUD approval of the add-on subsidy incentive, the PHA must:

1. Submit a project cost summary sheet showing ECMs by project, funding type and M & V type;
2. Submit detailed utility baseline data including any adjustments to the data;
3. Provide documentation to support all stipulated energy savings.

### 5.2.2 Annual Reporting Requirements

Yearly the PHA must provide the following to HUD:

1. Provide a copy of the ESCo prepared M&V report for all ESCo developed contracts.
2. HUD may require an independent third-party prepared M&V report in replacement of the ESCo prepared M&V report (if performed) and will require an independent third-party prepared M&V report for self-developed EPCs. The preparer of this report cannot be the ESCo for ESCo-developed contracts. Likewise, it cannot be the licensed engineer for PHA-developed contracts. Exceptions to this policy include:
  - a. HUD's determination that the associated risks are low to the PHA and HUD.
  - b. HUD's determination that the M&V costs are excessive compared to the value of the energy savings (e.g. greater than 40%).

### 5.2.3 Over-performance of ECMs

If ECMs produce savings greater than those needed to satisfy project costs, the PHA may take advantage of these savings in the following ways:

- To address additional energy or Green improvements by expanding the current project (increase project costs).
- Acceleration of debt service on the existing project, if permitted under the financing contract.

### 5.3 Resident Paid Utilities

PHAs undertaking energy conservation measures that are financed by an entity other than HUD may include resident-paid utilities under the consumption reduction incentive. The PHA must use at least 75 percent of the annual projected cost savings to finance the cost of the improvement. The add-on subsidy is not available to finance ECMs where the utilities are resident-paid.

This approach allows a PHA to exclude from its operating fund rental income calculations any rents received that are a result of decreased utility allowances resulting from decreased consumption. The PHA must exclude from its calculation of rental income the increased rental income due to the difference between the baseline allowance and the revised allowances of the projects for the duration of the

contract period. The funding period for the resident-paid utility incentive is from July 1 through June 30 of a given calendar year.

To calculate the amount excluded from rental income after the first year of the EPC contract the PHA must subtract the yearly utility consumption from the baseline utility consumption and multiply the difference by the current utility rate. It is assumed that the number is a positive amount, resulting from a decrease in utility consumption.

### 5.3.1 HUD Approval Requirements

For HUD approval of the resident paid utility incentive, the PHA must:

1. Submit a cost summary sheet showing ECMs by project, funding type and M & V (M&V) type;
2. Provide documentation to support stipulated energy savings.

### 5.3.2 Annual Reporting Requirements

Yearly the PHA must provide the following to HUD:

1. Documentation to support that at least 75 percent of the energy savings is being utilized as payment for the debt service and project costs.  
Documentation to support that the PHA has reviewed its utility allowances as required by 24 CFR 965.507
2. Documentation to support the yearly energy savings.
3. A copy of the ESCo prepared M&V report for all ESCo developed contracts.

### 5.3.3 Retained Savings Disposition

PHA retained energy savings (the amount of savings that go to the PHA after debt service is paid) can be used for:

- A PHA may use the full amount of the remaining savings for any eligible operating expense.
- For payment of the EPC costs at other projects.
- To address additional energy or Green Improvements by expanding the current project through the use of any retained savings.
- Acceleration of debt service on the existing project, if permitted under the financing contract.

## 5.4 Rate Reduction

The rate reduction incentive is included in this notice to provide an all-inclusive discussion of HUD's incentives.

If a PHA takes action beyond normal public participation and effective management in rate-making proceedings (e.g., well-head purchase of natural gas, administrative appeals, or legal actions to reduce the rate it pays for utilities) then the PHA is permitted to retain 50 percent of the annual savings realized from these actions. No time limit exists on the rate reduction incentive, provided the actions continue to be cost effective.

The rate incentive savings are shared between the PHA and HUD and are calculated as the difference between the post- and pre-retrofit consumption times the prevailing and negotiated utility rate. The PHA must use its rate incentive savings for activities eligible under the Operating Fund. The rate incentive must be calculated each year the PHA seeks the incentive. **The use of the rate reduction incentive with other incentives has the effect of reducing the incentives in accordance with 24 CFR § 990.185.**

## 6. Completed Contracts - Use of PHA Retained Energy Savings.

In the event that a PHA has completed the terms of an EPC contract and there are cost savings after the loan has been paid, a PHA may use any accumulated energy incentive savings as a source of payment for third-party financing of planned energy improvements or for any eligible operating expense of the PHA (24 CFR 990.185(a)(ii)). If the PHA wanted to use cost savings for purposes other than eligible Operating Fund expenses, the PHA would need to request a regulation waiver. For example, if the PHA wanted to fund capital improvements (e.g., entry door retrofits), with retained project cost savings under current regulations, a waiver of 990.185(a)(ii) must be requested.

## 7. Contract Period for an Energy Performance Contract.

In an EPC, there are several distinct contract periods associated with the energy services agreement (ESA) including:

- Construction;
- Financing amortization; and
- HUD incentives.

The contract periods may or may not be discrete timeframes, depending on the stages and complexities of the project. For example, the ESA period typically includes the construction period and the financing amortization period. The financing amortization period is typically the same as the HUD incentives period. For the HUD incentives period, the governing contract period is the approved term (start and completion date) of the HUD incentives, not to exceed 20 years.

Other contract periods related to various energy project stages, such as financing, payback or construction, are not standardized, but are sufficiently flexible to provide an opportunity to maximize savings and mitigate risk to the PHA.

## **8. Investment Grade Energy Audit.**

A critical initial component of an EPC is the IGEA. The IGEA includes baseline utility consumption and cost by utility type, ECMs, estimates of the ECM's specific potential for reducing utility costs, the payback or time period over which this potential is realized, along with a defined M&V protocol.

An ESCo or energy engineering firm conducts an IGEA of facilities affected by an EPC to determine the potential for energy savings over a utility baseline through such measures as high-efficiency equipment replacements, building upgrades and improved management systems.

The utility baseline in an IGEA must correlate to the three-year rolling base as defined previously in this Notice.

The IGEA prescribes a combination of recommended ECMs into an economically viable package. The IGEA also identifies the reasonably anticipated utility savings required to service the debt attributable to the design, development, installation, and M&V of the combination of ECMs. The utility consumption and projected cost savings produced by the combination of ECMs included in the energy/utility project must be sufficient to cover all project related costs (i.e. construction management and administration, equipment, hardware, systems software, financing, costs to control and monitor consumption, project design and development costs, training costs directly related to maintenance and resident education on energy conservation, and operation of newly installed equipment, etc.) over the contract term. Operational and maintenance cost may also be included to the extent that the PHA can demonstrate the costs are unique to the new equipment and in addition to the routine maintenance activities provided to the PHA

under the current PEL. For 20-year terms, the savings must persist over the entire term of the energy project.

As the term indicates, and IGEA is an assessment of the capital investment potential related specifically to energy and utility conservation measures. Traditional capital budgeting techniques give explicit consideration to the time value of money. IGEA as of the date of this notice will include the Net Present Value (NPV) of the project, the Internal Rate of Return (IRR), and the Savings to Investment Ratio (SIR). HUD will use the values in its evaluation of energy/utility investments.

**9. Minimum Efficiency Standards.**

When making upgrades to equipment (including, but not limited to, mechanical, electrical, and plumbing systems, residential appliances, windows, lighting, etc) through an EPC, PHAs must specify Energy Star, Water Sense, or FEMP-designated products. For equipment whose useful life is less than the contract term, each round of replacement equipment installed through the EPC must meet the Energy Star, Water Sense, or FEMP-designated standards that are current at the time of replacement. Any specified equipment that does not meet these standards is not eligible for inclusion in the EPC, unless no such standard exists.

**10. Measurement and Verification Guidelines.**

When using HUD's conservation incentives, the PHA assumes the performance risks for the implemented ECMs. These risks can be minimized through proper understanding and use of M&V techniques.

M&V Guidelines have been developed by HUD to assist PHAs and ESCos in calculating energy savings. This document contains the procedures and guidelines for quantifying the savings resulting from energy efficient equipment, water conservation, renewable energy, and cogeneration projects implemented through HUD's EPC incentives. In accordance with 24 CFR § 990.185, HUD may approve financial incentives for a PHA once it is determined that payments under a contract can be funded from "reasonably anticipated energy costs." The M&V Guidelines serve as the basis for HUD's determination of such savings. These guidelines are posted on HUD's Public Housing Environmental and Conservation Clearinghouse (PHECC) website <http://www.hud.gov/offices/pih/programs/ph/phecc/epformance.cfm>.

HUD recommends that a PHA hire an independent third party M&V consultant to review the proposed M&V methodology prior to award of the ESCo contract. The consultant's review of the proposed contract should insure the value of the ESCo guaranteed savings, thus mitigating risk to the PHA. The consultant must carefully review the terms and

conditions of any savings guarantee provided by an ESCo and consider how this guarantee relates to the subsidy incentive being employed. To minimize risk, PHAs must strive to secure a savings guarantee that correlates to the subsidy incentive or combination of incentives employed.

## **11. Measurement and Verification Reports.**

The M & V report is an annual report developed by an ESCo, independent third party or the PHA which measures the energy savings resulting from the installed ECMs. The reporting intervals for these reports must be adjusted to parallel the HUD utility reporting period for each of the HUD incentives. For measures funded by the frozen rolling base and the resident paid utilities incentive, the reporting period should be Jul 1<sup>st</sup> of each year through Jun 30<sup>th</sup> of the following year. For the add-on subsidy incentive, the reporting period should be Jan 1<sup>st</sup> through Dec 31<sup>st</sup> of each calendar year.

The cost of the report is an allowable expense under a performance contract and must be included in the initial cash flows.

## **12. Utility Surcharges.**

Some PHAs install check- or sub-meters on PHA-furnished utilities, under an EPC or by other means, to monitor unit, resident or household utility consumption usage. For utility surcharge discussion purposes, resident, household and unit are synonymous. Check- or sub-meters allow PHAs to determine if a resident's consumption has exceeded its utility allowance (UA).

The PHA may, in those cases, charge the resident a surcharge (charge for consumption in excess of the UA) in accordance with provisions in 24 CFR § 965.506 and as acceptable by State and local law. PHAs must also establish schedules of surcharges for excess consumption attributable to resident-owned major appliances or to optional functions of PHA-furnished equipment (e.g., air conditioning).

Effective calendar year (CY) 2009, for subsidy eligibility submissions, PHAs that realize additional savings from resident surcharges resulting from EPC projects must report those surcharges HUD on form HUD-52722, Line 19. There is no reporting exception for PHAs entering into an EPC.

Under an EPC for PHA furnished utilities, a PHA is not eligible to retain resident surcharges as savings to amortize an energy/utility project loan. HUD requires PHAs to report resident surcharges as a component of the eligibility calculation for operating

subsidy funds. Utility consumption in excess of the resident utility allowances for PHA-paid utilities is included in the rolling base, part of the basis of a PHA's subsidy eligibility.

The additional funds that the PHA receives from resident surcharges are recaptured by HUD to offset the cost of utilities paid as part of the operating subsidy. Permitting the PHA to retain the resident's surcharge and receive reimbursement for the same consumption through the operating subsidy amounts to reimbursing the PHA twice for the same charge.

Effective calendar year (CY) 2009, subsidy eligibility submissions and beyond, PHAs that realize additional savings from resident surcharges resulting from EPC projects must report those surcharge savings on form HUD-52722 line 19. HUD will not require PHAs or ESCos to pay back retained surcharge savings prior to CY 2009. Affected PHAs must amend their EPC agreements, as appropriate, to comply with the Department's surcharge requirements.

### **13. Life Cycle Costs.**

Life cycle cost analysis takes into account the long-term economic impact of purchase decisions under an EPC. This information is particularly crucial to HUD and the PHA when considering the project costs over a 20-year contract period. Life cycle cost analysis also assists PHAs in development of appropriate asset maintenance schedules and reducing associated operating costs by identifying potential future repairs.

HUD requires PHAs to provide life cycle cost analysis for proposed systems and equipment when approving an EPC. HUD will only consider providing savings incentives beyond the useful life if a reliable estimate of the replacement cost of the equipment is included in the EPC costs. If the ESCo or energy engineering firm does not contemplate replacing equipment with a useful life less than the contract period, the savings stream from the equipment must stop at the end of its useful life.

For example, with proper preventative maintenance and routine repairs of minor components, furnaces and boilers can be expected to perform 20 years; high efficiency air conditioning and central chillers 15 years; lighting systems 20 years; toilets 20 years; aerators and shower heads 8 years; and refrigerators can be expected to perform for 15 years.

Projects of 12 years and less in duration terminate before most retrofits reach the end of their useful lives. Projects that extend up to 20 years, however, will require some

equipment to be replaced midterm. Replacement equipment should be funded through the EPC to the maximum extent possible. If, however, the equipment is replaced by HUD funds, future savings generated by that equipment cannot be included within the cash flow of the EPC. Benefits for EPC replacement equipment paid for with HUD money are limited to those generated in accordance with the calculation of the operating fund subsidy (24 CFR § 990.170(c)), and are not part of the EPC.

Any additional operations and maintenance costs due to the ECMs are important considerations in determining long-term project costs, persistence of savings and the life of equipment. Many new green technologies (e.g., cogeneration, solar and wind technologies) require contracted operation and/or maintenance services over the term. Likewise, many pre-existing systems (e.g., older boiler systems) use 24/7 operators and/or outside services contracts and incur large demand charges for energy. PHAs undertaking EPCs with such ECMs should consider having a third party ESCO or engineering firm assess such long-term project costs, including costs of providing training for PHA staff in the areas of operations, maintenance and repair and/or the cost of outside service contracts as part of the EPC.

The Project Expense Level (PEL) calculated under 24 CFR § 990.165 includes the cost associated with maintenance and other expenses. Replacing older, outdated energy equipment should result in maintenance cost savings. The Operating Fund Formula allows PHAs to retain operation and maintenance cost savings under the current PEL calculation. While the maintenance cost savings are not considered utilities and, therefore, are not eligible for use in calculating EPC savings, any maintenance savings represent a reduction in operational costs.

#### **14. Asset Management.**

Asset management emphasizes property-based budgeting, funding, management, accounting, and reporting as well as long term, strategic planning. PHA transition to asset management is expected to result in greater accountability, more effective use of resources, including utilities, and better quality housing. Energy and water conservation are critical components of asset management. Energy projects that extend up to 20 years clearly involve a long term, strategic planning component.

Effective CY 2008, HUD required any new project proposal, IGEA and ESA to present information broken down by project. This requirement is in keeping with 24 CFR § 990.170(f)(2), which requires PHAs to keep utility records at the project level. The required project information must also include: baseline utility consumption and cost correlating to information submitted (or to be submitted) by the PHA on form HUD-

52722; projected utility consumption and cost savings by utility type, tied to the project utility baseline; the cost of each ECM; and project cost savings by calendar year for add-on subsidy.

Under an EPC, savings from some measures can be used to subsidize other measures whose savings may not be adequate to cover costs. This situation can complicate asset management requirements when the ECMS are in different Asset Management Projects (AMPs). In order to calculate debt and savings for individual AMPs, the PHA should follow these steps:

1. Apportion the debt among projects according to acquisition cost; and
2. Utilize fungibility to service the debt, when for example, Projects 1 and 2 realize considerable savings, and Project 3 does not (i.e. minimal savings).

Energy/utility conservation measures for the COCC may be included in an EPC. However, debt service payments (project costs) for COCC measures must be funded from fee income and other non-program income and cannot be funded from retained savings from within the EPC.

#### **15. Procurement Considerations for Energy Performance Contracts.**

In addition to any Federal requirements, PHAs must comply with any State and local requirements relating to EPCs. For example, if a PHA is subject to a State law limiting EPC terms to 10 years, then the PHA must abide by the State limit, regardless of the higher Federal limit. PHAs should review their State and local laws with their counsel. PIH Directors should consult with Field Office Counsel on conflict of laws questions.

Where permissible, a PHA may use small purchase procurement procedures up to \$100,000 to facilitate the purchase of ECMs (e.g., refrigerators, windows, etc). If there is a legitimate business or management reason, a PHA can procure similar items separately for each project using small purchase procedures even if, collectively, those items would exceed \$100,000 (the Federal small purchase threshold).

For example, a PHA may begin the year expecting to replace refrigerators at just one of its projects. Later in the year, the PHA must replace other refrigerators due to a series of malfunctions at other sites. The cost of replacing all the refrigerators exceeded \$100,000; although the individual replacement cost for each group of refrigerators was below and within the small purchase threshold. Similarly, a PHA may decide to have individual projects procure separately for heating and cooling maintenance services (even when the total cost of the work exceeds \$100,000) either to support small and minority businesses

or because it prefers to have multiple vendors (avoiding the “all eggs in one basket” phenomenon). PHAs must retain documentation to support their business needs.

#### **16. Use of HUD Funds in Energy Performance Contracts.**

In many projects, PHAs may seek to use Capital Funds in collaboration with utility financing. This is due to deferred maintenance items such as heating and hot water systems and windows, which have high initial capital costs. PHAs are encouraged to blend Capital Funds with utility finance projects where using the two funding sources will provide synergy and extend comprehensive property revitalization. A PHA may also use its ESCo for Architectural and/or engineering services or construction management for Capital Fund related work; however, PHAs must follow the procurement requirements in 24 CFR §85.36. The final energy services agreement or energy services plan must show itemized expenditures by development for energy-financed investments and other funding sources to include but not limited to Capital Fund, Capital Fund Financing Program (CFFP), grants, utility rebates, etc.

Regarding the use of HUD funds, the following restrictions apply:

- PHAs are specifically prohibited from using HUD funds, e.g. HUD Capital, Operating, and Capital Fund Financing Program funds, to repay EPC debt service attributable to project costs or other EPC obligations.
- Any EPC project savings must be reflective of ECMs purchased through the use of third-party financing. While the PHAs are encouraged to blend capital funds with utility finance projects, the EPC cash flow savings shall not include savings from ECMs purchased using HUD funds, e.g. Capital Funds, Operating Funds, or CFFP funds.

For example, a PHA is contemplating a major upgrade at one of its projects. The total cost of the work is anticipated to be \$5 million, of which \$3 million is projected for heating and cooling system improvements (with high paybacks) and \$2 million for roofs, insulation, and windows (with low paybacks). Altogether, the work does not provide sufficient payback to attract private investment per EPC; however, by splitting the work into high and low paybacks, the PHA can create a feasible EPC. Thus, the high payback work is done under an EPC and the low payback work is funded with Capital Funds.

If there are improvements funded by Capital Funds, HUD incentives under an EPC will be applied only to the amount that is financed by a third party (e.g., ESCo or bank). Utility savings generated from the measures funded by Capital Funds may not be

included in the cash flow savings used to amortize the debt to third party financing. In addition, the PHA's energy improvements with Capital Funds must be reflected in their Five-Year Capital Fund Plan.

**17. Requests for Extending EPCs Not To Exceed 20 Years.**

HUD no longer requires a waiver for PHAs that want a new EPC or an extension of an existing EPC to a term of not more than 20 years, effective November 17, 2008. The PHA must submit requests for use of HUD incentives directly to the local HUD Field Office for final approval.

PHAs with an existing EPC may request to extend their use of HUD's energy incentives to a term not to exceed 20 years provided the PHA is adding additional ECMs. The PHA may also initiate a new project using a qualified third party and terminate its existing contract to take advantage of a new contract with longer terms. If the existing contract is terminated and a new procurement is initiated, the agency may add additional properties for a term not to exceed 20 years to its proposal. The PHA should carefully review the termination clauses in its contract and consider the termination costs.

When considering an extension of an existing contract, the PHA should carefully consider the benefits of procuring or self developing a new energy/utility project. For example, a new project can be expanded to include new ECMs for projects under the existing contract, in addition to other projects in the PHA's portfolio. In this instance, any activity that may interrupt guarantees and insurance policies on the prior project must be considered.

In addition, the IGEA associated with a newly developed EPC project will give the PHA an objective, comprehensive consumption and performance picture of existing ECMs under the original contract and also provides a means for combining other properties and measures not in the original contract. PHA-wide and project-based data provide a more accurate representation of proposed ECM requirements and savings.

Under a new project, the PHA can get approval for a contract term not to exceed 20 years versus a maximum of an additional eight year extension for an existing 12 year contract. The new project (ESCO or self-developed) can provide larger retained savings for the new contract, resulting from the longer term and open competition among ESCOs, energy engineering firms and energy consultants.

An existing EPC may be extended without the re-procurement of energy performance contractors for only those specific projects included in the original EPC and provided that

there are additional energy conservation improvements added. For an existing EPC, the PHA must submit its request directly to the local HUD Field Office for approval.

Consistent with the provisions and intentions of Section 229 of the Consolidated Appropriations Act of 2008, the basis for the extension without re-procurement of energy performance contract is the HUD incentives period. Enforcement of the contract period is interpreted as the term of the HUD incentives. From that date forward, the PHA may get approval for extending an existing contract, measured by the HUD incentives period, not to exceed a total of 20 years. The extension term must be continuous with the original term of the contract. However, the additional ECMs must be factored into the incentives calculations.

For example, if a PHA requests extension of an existing 12 year contract, the extension must begin at the conclusion of the original incentives period without a break in the incentive period. The PHA can't request an extension, for example, to start one year after the original incentives period ends. The total incentives period must be continuous. The same guidance also applies to self-developed projects.

Documents that would assist the Field Office in its determination of approval include an IGEA for the new project, an amortization schedule, energy services agreement and M&V report that verifies savings have exceeded repayment in the prior two years using HUD M & V Guidelines.

A HUD Cost Summary sheet or similar document must be provided showing all previous measures and any additional ECMs by project, funding type and M&V type. The HUD review of a contract extension, Phase II, will involve re-approval of the Phase I portion of the contract. As such, existing baselines and previously approved energy savings will be reviewed to ensure compliance with current policies.

The extension of an existing contract will involve the following, where applicable:

- Frozen Rolling Base Incentive – The baseline will remain frozen at the Phase I level. Retained cost savings from the Phase I contract may be used to support the additional ECMs contained in the Phase II work.
- Add-On Subsidy Incentive –The Phase I add-on subsidy will be recalculated to support the amortized project cost of additional Phase II EMCs. Yearly energy savings from both the Phase I and the Phase II ECMs will be utilized in HUD's review of annual savings.
- Resident Paid Utility Incentive – retained cost savings from the Phase I contract will be used to support the additional ECMs contained in the Phase II work.

For approval, HUD requires PHAs to include in the IGEA life cycle cost analysis, the

estimated useful life of the ECMs under the original contract and proposed extension. In addition, HUD recommends that PHAs, as part of its additional energy conservation measures, not replace equipment with more than 30% of its useful life remaining unless it can be demonstrated through the IGEA that replacement is cost effective.

Another way that an EPC can be extended up to the 20-year limit is if the energy cost savings are less than the amount necessary to meet amortization payments specified in a contract. However, this is only possible when HUD determines that the shortfall is the result of changed circumstances (e.g., increase in consumption due to additional modernized units coming on line rather than a miscalculation or misrepresentation of projected energy savings by the contractor or PHA). The contract term may be extended to accommodate debt service and if additional energy conservation improvements are added. In addition, the PHA must demonstrate that its shortfall is due to changed circumstances, rather than miscalculation or misrepresentation.

#### **18. HUD – Energy Center and Field Office Responsibilities for Energy Performance Contracts.**

HUD's role as a reviewer is similar to that of an investor or regulator. As an investor, HUD's interest is in the success of the project, minimizing risk to the Department and subsequently, the taxpayer. HUD's role as a regulator is to ensure that PHAs comply with HUD regulations, specifically procurement guidelines and that the HUD incentives period does not exceed 20 years.

In reviewing EPCs for approval, HUD is specifically interested in verifying that projected cost savings generated by the contract will reasonably cover project costs (e.g., supporting life cycle cost analysis documentation related to projected savings is complete).

24 CFR § 965.308(b) requires that EPCs must be submitted to the HUD Field Office for review and approval before award. In conjunction with a contract review, HUD Field Offices are responsible for reviewing the engineering and financial basis of energy finance projects, processing subsidy requests, and assuring regulatory compliance. Field Offices can expect to spend more review, approval and ongoing regulatory compliance time with 20-year projects than with requests to extend existing contracts not to exceed 20 years.

The Office of Field Operations Energy Center (OFO-Energy Center) has been established to assist Field Offices in reviewing EPCs. The review process for EPCs includes a

Completeness Review, a Technical Review and may include a Panel Review. The Panel Review will be predicated on such criteria as project value, project history or other factors as appropriate to ensure that projected cost savings generated by the contract will reasonably cover project costs. Field Office staff may perform the Completeness and Technical review. The Panel Review will be performed with the OFO-Energy Center. If a Field Office is conducting its own EPC review, then a Panel Review must be conducted by the OFO-Energy Center.

Field offices shall also ensure that PHAs comply with the restricted use of HUD funds with an EPC. HUD's Field Offices will carefully review any proposal to use HUD funds as a part of an EPC during the initial EPC project approval process. In addition, as part of the annual M&V review, Field Offices must ensure that HUD funds are not included in any cash flow payments for debt servicing of EPC project costs.

Documentation provided by the PHA that should be maintained at the Field Office to enable contract performance and regulatory compliance include:

- Request for Proposal (RFP);
- HUD approval letter for the RFP;
- IGEA contract;
- IGEA;
- ESA;
- HUD approval letter for the ESA and financial incentives;
- Amortization schedules;
- Affected forms HUD-52722 and HUD-52723 over the life of the contract;
- Annual savings measurement and verification reports and any financial audits with reconciliation to form HUD-52722 or calendar year savings for add-on subsidy;
- Correspondence to waiver requests and approvals;
- Related change orders or amendments to the initial ESA; and
- PHA's commissioning report or acceptance letter that the project has been completed.

The OFO-Energy Center will provide the Office of Public Housing Programs an update as required of the EPC inventory for HUD's report to Congress, Departmental Energy Action Plan, and evaluation of management goals and for policy analyses. Each Field Office will be required to provide the required cost, consumption and ancillary data to meet the request.

An EPC project will be reviewed and a HUD approval or rejection decision provided to the PHA within 90 business days or less. Individual phases of multi-phased projects may have separate 90-day timelines depending on the size and complexity of the phases. The timeline begins when HUD has received the package for review and includes only the time that HUD is reviewing the project.

Reducing the timeline is predicated on a PHA's or ESCo's familiarity with HUD's EPC checklists. Complete submissions, coordination with the Field Offices and the OFO-Energy Center prior to submission will assist in pre-empting delays because of incomplete submissions or lack of supporting data. Exceptions to the 90 day timeframe for compelling reasons must be approved concurrently by the Office of Field Operations and the Office of Public Housing. HUD is continuing to evaluate its EPC process for improvements to streamline EPCs and enhance its quality control to ensure that EPC consumption and cost savings are accurate and auditable.

#### **19. PHA Responsibilities for EPCs.**

The PHA's role in an EPC is that of a business owner (i.e., to negotiate contract conditions in the best interest of the project to ensure project viability, long-term savings and minimize risks). The regulation at 24 CFR § 965.308 requires that PHAs obtain HUD approval of the solicitations for EPCs prior to issuance and prior to award.

PHAs must comply with HUD procurement regulations in 24 CFR § 85.36, which specifically require under 24 CFR § 85.36(c) that all procurement be performed in a manner that provides full and open competition. Regulations at 24 CFR § 965.308 and 24 CFR § 85.36(d)(4)(i)(A) require that EPCs be procured through competitive proposals unless services are available only from a single source and justification is provided.

A 20-year contract poses more risk to HUD's Operating Fund if the unit inventory under contract changes. If unit inventory changes due to demolition or disposition for units with an approved frozen rolling base or energy loan amortization add-on, HUD may consider making the appropriate adjustments. The PHA should also consider the impact of such actions on an existing EPC financing agreement.

All EPCs must be submitted to the HUD local Field Office for review and approval before award. PHAs should work closely with their HUD Field Offices throughout the process to ensure common understanding of options, requirements, and outcomes. This interaction should begin during project planning and carry through into project repayment.

At the completion of the construction period, the PHA must report to HUD any change orders or addenda to the ESA occurring during construction. The change order or addenda must clearly evidence changes to the actual project costs and the post-construction estimates of the savings, the latter in both consumption and dollar value. If changes to the approved contract affect the project cost or the contract savings to the PHA in an amount greater than 10% of the original HUD approved contract, the PHA must re-submit project documentation to HUD for approval.

EPCs are contracts between the PHA and ESCos or alternatively energy engineering firms in conjunction with contractors. HUD is not party to these contracts. PHAs, therefore, fully assume the risk for the following:

- Generating sufficient savings to cover payments related to the project cost and guarantees as discussed in Section 4; and,
- Savings shortfalls over time attributable to:
  - a) Consumption savings that are not guaranteed;
  - b) Projected rate increases that don't materialize; and,
  - c) Consumption increases that adversely affect the project economics.

HUD encourages PHAs to reduce their risk related to project cost and consumption savings to the maximum extent possible through negotiation, guarantees and the use of third party independent consultants.

In particular, PHAs should understand their risks and responsibilities in undertaking an EPC as a self-developed project. A critical aspect for a 20-year term will be the need for savings to persist over the entire term of the energy project. To mitigate risk, a PHA should identify its capital needs through its physical needs assessment and energy audit as part of any long-term asset plan and should consider the services of an energy engineering firm, a credentialed independent licensed engineering consultant or certified energy manager when undertaking an EPC.

In the event an EPC project is amended or terminated, the PHA must notify the local HUD Field Office immediately, detailing the conditions and causes of the amendment or termination.

## **20. Conflicts of Interest.**

If in-house expertise is not available, HUD recommends that PHAs consider hiring qualified engineering and financial contractors for assistance. All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of 24 CFR § 85.36.

No third party contractor to the PHA shall participate in the selection, award, or administration of a contract supported by Federal funds if a conflict of interest, financial or otherwise, real or apparent, would be involved. Such a conflict would arise when the contractor, officer or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the above, has a financial or other interest in the firm selected for the award.

HUD encourages energy engineering firms and other third party consultants seeking to help PHAs reduce energy consumption to market their services, products, qualifications and expertise in energy conservation. They, however, must refrain from any activities that involve paid or free technical assistance specifically related to the preparation of energy procurement documentation (e.g., statement of work or request for proposals/qualifications) for which the firm may directly or indirectly compete for an award.

All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of 24 CFR § 85.36. No firm may participate in the preparation, selection, award, or administration of a contract supported by Federal funds if a conflict of interest, financial or otherwise, real or apparent, would be involved.

## **21. Future Effects from Legislation.**

HUD has submitted to Congress, as part of its FY12 Budget proposal, a request to fund and authorize a Rental Assistance Demonstration. The Demonstration would allow for the voluntary conversion of public housing properties to long-term project-based Section 8 rental assistance. While the proposal is being considered and modified by Congress, HUD will continue to review and approve qualified EPC proposals. As always, PHAs should consider whether entering into an EPC is a sound business decision, taking into account benefits, risks, and possible statutory change.

## **22. Section 30 of the 1937 Housing Act.**

Where any financing transaction involves a security interest or other encumbrance in public housing property, PHAs are required to obtain written approval from HUD of the security interest or encumbrance pursuant to Section 30 of the U.S. Housing Act of 1937 (1937 Act). HUD approval of EPCs and associated ESAs do not constitute approval of the security interest, and a separate approval must be obtained.

Under some lease-purchase agreements (otherwise known as municipal leases, the typical financing structure for an EPC), ownership of the equipment may reside with the third party, e.g., a bank, ESCo, etc. Under this scenario, where the ownership resides with a third party, a Section 30 approval is not required. Where ownership of the equipment resides with the PHA and a lien or other encumbrance exists on the equipment, a section 30 approval is required.

HUD's Section 30 review focuses narrowly upon the security interest or encumbrance, and does not evaluate or approve the financing.

### **Submission Requirements**

1. Submission to the HUD Field Offices: To obtain Section 30 approval related to an EPC transaction, PHAs must submit to the HUD Field Office documentation that all of the properties included within the EPC have current (i.e., have not expired and will not expire during the term of the EPC) and effective (i.e., no liens or encumbrances prior to the Declarations of Trust) Modernization Declaration(s) of Trust (DOT(s)) (form HUD-52190-B) recorded against them. The PHA should submit to HUD's Field Office copies of all modernization DOTs for all of their Non-Mixed Finance public housing properties included within the EPC, and a certification from their counsel that these represent all of the non-mixed finance public housing properties, both real (e.g., real estate or buildings) and personal property (e.g., fixtures, equipment, reserves or bank accounts), that will be subject to the security interest or other encumbrance related to the EPC, and that in each instance the DOTs are recorded prior (both in time and position) to the security interest or other encumbrance that will be recorded pursuant to the EPC, and that they will remain current and effective for the term of the financing. If the PHA Counsel is unwilling to offer such a certification, the PHA may submit a title report, along with a certification from the PHA that the DOTs and the title report cover all of the public housing properties, both real and personal property, that will be subject to the security interest or encumbrance related to the EPC. Further, where HUD determines a higher level of documentation is needed, HUD reserves the right to require a title report.

DOTs and/or Declaration of Restrictive Covenants (DRCs) are not required to be submitted for mixed finance projects.

2. Submission to the Office of Public Housing Investments (OPHI): The PHA must also submit a request for a Section 30 approval (EPC Section 30 Proposal) in the form of a letter to the Deputy Assistant Secretary, Office of Public Housing Investments, describing the financing and the security interest, and requesting HUD's approval of the security interest. The submission to OPHI should include:
  - A PHA counsel's opinion, which opines that the PHA has the authority to enter into the transaction and provide the security interest or encumbrance it is requesting HUD's approval for, , and that the transaction complies with the requirements of the 1937 Act, as amended, federal regulations, and the Annual Contributions Contract (ACC), as amended.
  - The PHA must submit evidence of a PHA Board resolution that authorizes the PHA to undertake the EPC financing and enter into all financing documents and provide all security interests or encumbrances that are part of the EPC financing. The Board resolution must also provide authorization for the Executive Director or other executive staff to negotiate and enter into all legal documents required as part of the transaction.
  - A matrix providing the following for each project or property on which a security interest or encumbrance is requested:
    1. Project name
    2. Project number
    3. If less than an entire project, a description (building addresses and/or site description) of the property upon which a security interest is being provided.
  - A Property description and location if the security interest or encumbrance is not on real property.
  - A Description of Security Interest or Encumbrance

PHAs must submit one hard copy and one electronic copy of the complete EPC Section 30 Proposal to:

*Attention:* Dominique Blom  
Deputy Assistant Secretary

Office of Public Housing Investments  
Room 4130  
451 7th Street SW  
Washington, DC 20410

- One hard copy of a complete EPC Section 30 Proposal and one electronic copy must also be sent to the appropriate Director of Public and Indian Housing in the Field Office. As noted above, the Field Office Director should also be sent a copy of DOTs and title documents (these are not sent to OPHI).

### **Field Office Review**

- Upon receipt of the Modernization (form HUD-52190-B) DOTs and PHA counsel certification or title report, the Field's Public Housing Office shall provide copies of the documentation to Field Office Counsel and request that they review the documentation and coordinate their review with Headquarters' Counsel.
- Field Office Counsel shall review the matrix, the DOTs, and PHA counsel certification (or in the alternative, a title report) and provide an e-mail confirmation to Headquarters' Counsel, the Field Public Housing Director and the OPHI Alternative Financing Specialist (conducting the Section 30 review) that the documentation submitted by the PHA is sufficient to establish that there is a Modernization DOT(s) recorded prior to the security interest and/or encumbrance on each non-mixed finance property that will be part of the EPC, and that is what will be effective for the term of the EPC financing
- Headquarters Counsel will review the opinion provided by the Field Counsel confirm that the documentation submitted is acceptable and sufficient to establish that there is an effective Modernization DOT(s) recorded prior to the security interest or encumbrance associated with the EPC on each non-mixed finance property that will be subject to the EPC security interest or encumbrance.
- Document Retention: The Field Office shall retain all documents associated with the DOT reviews.

If you have any questions or concerns regarding the necessary documentation required for a Section 30 proposal, please contact Kevin Gallagher at 202-402-4192 or by email at [Kevin.J.Gallagher@hud.gov](mailto:Kevin.J.Gallagher@hud.gov).

**23. Further Information.**

Direct inquiries concerning review processes to the OFO-Energy Center at [OFOEnergyCenter@hud.gov](mailto:OFOEnergyCenter@hud.gov). Direct requests for technical assistance related to audits, procurement, training, templates or other energy guidance to the local HUD Field Office. For assistance with EPC Program policy or waiver questions, contact Erin Schaefer, Housing Program Specialist, Public and Indian Housing, Management and Occupancy Division, HUD Headquarters in DC at [Erin.L.Schaefer@hud.gov](mailto:Erin.L.Schaefer@hud.gov) or (202)402-6354. Persons with hearing or speech impairments may access this number by calling the Federal Information Relay Service at (800)877-8339. The Public Housing Environmental and Conservation Clearinghouse (PHECC) at <http://www.hud.gov/offices/pih/programs/ph/phecc/eperformance.cfm> remains the official HUD site for EPC Program policy and resources. In addition, Chapter 17 of the Public Housing Procurement Handbook, 7460.8 REV-2, provides guidance on procurement of EPCs.

**24. Paperwork Reduction Act.**

The HUD forms referenced in this notice are approved under the Paperwork Reduction Act - OMB Control Number 2577-0029.

/s/

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