



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

Special Attention of: Public Housing Agencies Public Housing Hub Office Directors Public Housing Program Center Directors Regional Directors Field Office Directors Resident Management Corporations	Notice PIH-2012-30
	Issued: June 22, 2012
	Expires: Effective until Amended, Superseded or Rescinded

Cross Reference:

Subject: Public Housing Operating Subsidy Eligibility Calculations for Calendar Year 2013

1. Purpose

This notice provides public housing agencies (PHAs) with instructions for the calculation of operating subsidy eligibility in Calendar Year (CY) 2013 in anticipation of Federal Fiscal Year (FFY) 2013 appropriations. It also informs PHAs that in an effort to reduce their reporting burdens HUD will use information in its systems of record to determine operating subsidy eligibility. HUD is committed to providing eligibility information to PHAs prior to the start of CY 2013.

2. Background

- A. HUD provides operating subsidies for public housing at the project level on a calendar year basis. Separate operating subsidy calculation forms (see 4.A. below) must be submitted for each project identified in the Inventory Management System PIH Information Center (IMS/PIC) as a separate project.
- B. The Department is committed to provide operating subsidy eligibility to PHAs before the start of the funding year both to improve the capacity of PHAs to undertake financial forecasting and to ensure best practices for asset management. Timely information on funding eligibility is a basic element required for the effective management of Public Housing. HUD has enhanced its internal processes and dedicated numerous resources to meet this objective. For example, similar to the calculation of the Capital Fund, HUD is increasingly utilizing data that PHAs enter into HUD systems, most notably IMS/PIC, to run the Operating Fund formula. While PHAs will need to intensify their efforts to ensure that the data they enter is accurate, the burden on PHAs ultimately will decrease as redundant requirements are eliminated.

- C. HUD is making every effort to provide PHAs with more time to make their operating subsidy submissions and will continue such efforts in the future. However, in order to provide more time, other steps in the process will need to be tightened. For example, in order for HUD to provide pre-populated forms HUD-52723 to PHAs by mid-August, PHAs that calculate their Eligible Unit Months (EUMs) from data on the last day of the month must submit their form HUD-50058 data for June 30, 2012 within thirty (30) days, rather than the sixty (60) days permitted in the 50058 instructions.

To assist all PHAs in ensuring accurate 50058 and allowable vacancy data, HUD has begun publishing that data on a monthly basis for PHA review on the Calendar Year 2013 Subsidy Processing web page at:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/am/of/opfnd2013.

PHAs that identify discrepancies in their 50058 and allowable vacancy data should follow the “Unit Status Data Instructions” on the above web page.

- D. In FFYs 2008, 2009, 2010, 2011 and 2012, Congress provided an exemption from asset management for PHAs with between 250-400 units. If this exemption is removed in the FFY 2013 appropriations, appropriate instructions will be provided for data entry in the Excel Tool (see 4.B. below) that will be posted on the Calendar Year 2013 Subsidy Processing web page.

3. Initial Obligation of CY 2013 Operating Subsidy

HUD will deploy the CY 2013 Excel Tools for forms HUD-52723 and 52722 (see 4.B.) by August 20, 2012. PHAs must submit their completed CY 2013 Excel Tools to the appropriate Field Office (FO) no later than October 1, 2012. HUD plans to notify PHAs of eligibility amounts no later than December 31, 2012. The initial obligation of operating subsidy funding for CY 2013 may be based on estimates depending on the date HUD’s FFY 2013 Appropriations Act is enacted. Details of the methodology used to calculate the estimates will be posted on the Calendar Year 2013 Subsidy Processing web page. Please check this page periodically.

4. General Operating Subsidy Submission Processing for CY 2013

A. Required Operating Subsidy Submission Forms

For HUD to determine operating subsidy eligibility under the operating fund formula, PHAs must complete and submit the following two forms for each project:

- i. Form HUD-52723, Operating Fund Calculation of Operating Subsidy; and
- ii. Form HUD-52722, Operating Fund Calculation of Utilities Expense Level.

In addition to the two forms above, PHAs must also submit or certify to the following forms and documentation, as applicable:

- i. Form SF-424, Application for Federal Assistance, required as part of the government-wide *e-grants* management initiative (refer to the Calendar Year 2013 Subsidy Processing web page for guidance on completion of this form). Each PHA shall submit only one form SF-424. PHAs are to send an email to the appropriate FO with the scanned document attached. However, with prior FO approval, the PHA may send it by fax.

PHAs must have a Dun and Bradstreet Universal Identifier Numbering System (DUNS) number as well as active registration in the Central Contractor Registration (CCR) to receive funds from HUD's financial systems. If a PHA does not have a DUNS number, the Calendar Year 2013 Subsidy Processing web page provides directions on how to receive one.

- ii. Form HUD-50071, Certification of Payments to Influence Federal Transactions. As with the SF-424, each PHA shall submit only one form HUD-50071.
- iii. Any other supporting documentation requested by the FO

B. Submission Process

No later than October 1, 2012, PHAs shall submit forms HUD-52723 and HUD-52722 electronically for each project to the appropriate FO using the Excel Tools. CY 2013 Excel Tools, instructions for completing the Tools and other required forms will be posted on the Calendar Year 2013 Subsidy Processing web page. Failure to meet the submission deadline will be interpreted as a rejection of the grant (operating subsidy) by the PHA.

NOTE: PHAs must submit the forms to HUD regardless of whether they are prepared by the PHA, the PHA's fee accountant or any other entity acting on behalf of the PHA. Fee accountants or entities other than the PHA may not submit the forms directly to HUD.

C. Pre-populated Data

To reduce PHA reporting burden and in accordance with 24 CFR 990.135(b)(2), information PHAs have submitted in HUD's systems of record (including IMS/PIC and the Financial Assessment Subsystem – Public Housing (FASS-PH)) will be used to pre-populate the CY 2013 Excel Tools.

Unit status and other data for the July 1, 2011 through June 30, 2012 reporting period will be extracted from IMS/PIC and summarized at the project level in the CY 2013 Excel Tools. If the pre-populated data is incorrect, entries may be edited by the PHA and/or the FO in accordance with Table 1 below and the instructions that follow.

As noted in the Background (paragraph 2.C.) of this Notice, for HUD to pre-populate forms HUD-52723 and provide the Excel Tools to PHAs by mid-August, PHAs must submit 50058s for the reporting period by August 1, 2012. This requires PHAs that calculate their Eligible Unit Months (EUMs) using data from the last day of the month to submit their form HUD-50058 data for June 30, 2012 within thirty (30) days, rather than the sixty (60) days provided in the 50058 instructions.

Table 1: CY 2013 Pre-populated Formula Data

Item Description	PHA Can Edit	Field Office Can Edit
Project Number	No	No
Name of PHA	No	No
Address of PHA	No	No
ACC Number	No	Yes
DUNS Number	Yes	Yes
Total number of ACC units for the PHA	No	Yes
Unit status data: Form HUD-52723, Section 2, Categorization of Unit Months, Column A, Lines 01, 02, 05-09, 11 and 13	No	Yes
PUM project expense level (PEL)	No	No
PEL Inflation factor	No	No
Utilities expense level (UEL) inflation factor	No	No
Payment in lieu of taxes (PILOT)	Yes	Yes
Cost of independent audit	Yes	Yes
PUM formula income	Yes	Yes
Transition funding	No	No

FO Changes to Categorization of Unit Months pre-populated data. Appropriate documentation is required to demonstrate that pre-populated IMS/PIC data is incorrect if:

- i. for Occupied dwelling units (Section 2, Column A, Line 01 of the HUD-52723), there is a change of 3% or more from the pre-populated data; or
- ii. for Units vacant and not categorized above (Section 2, Column A, Line 11 of the HUD-52723), there is a change of 3% or more from the pre-populated data; or
- iii. for any of the Lines 02 and 05–09, Section 2, Column A, of the HUD-52723, there is any increase from the pre-populated data.

This documentation must include, at a minimum:

- i. A PIH-REAC Technical Assistance Center (TAC) ticket number and

- ii. Demonstration that the cause of the data discrepancy was outside the control of the PHA and,
- iii. Demonstration that the PHA made timely efforts to resolve the discrepancy.

FOs may request any additional documentation considered necessary for other changes to Lines 01, 02, 05–09, 11 and 13.

5. Revisions to CY 2013 Operating Subsidy Eligibility

PHAs may request revisions to their original CY 2013 operating subsidy submissions based on any of the five reasons listed below. All revision requests must be submitted to the appropriate FO **no later than Friday, July 12, 2013**, to allow sufficient time for FO review and inclusion of any resulting changes to eligibility in the final CY 2013 operating subsidy eligibility prior to the end of FFY 2013.

- A. Correction of mathematical, clerical, information system or other errors;
- B. New projects/units (24 CFR 990.155). (Guidance on funding of new projects/units, i.e., added after the reporting period, is on the Calendar Year 2013 Subsidy Processing web page);
- C. Demolition and disposition of units (24 CFR 990.155);
- D. New utilities incentives/contracts (24 CFR 990.185); or
- E. Appeals granted by HUD (24 CFR 990.245).

6. Other Operating Subsidy Calculation Information

- A. Project Expense Levels (PELs).** PELs for CY 2013 will be based on IMS/PIC project, building and unit characteristics as of June 30, 2012. PELs may change when PHAs regroup their projects. To estimate the impact of project regroupings, PHAs can use the **Project Expense Level (PEL) Estimator** on the asset management Project Expense Levels web page at:

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

Changes that become effective after June 30, 2012 will apply to CY 2014 operating subsidy calculations.

- B. Formula Income.** PUM formula income will be pre-populated based on the PHA's most recently approved FASS-PH Financial Data Schedule (FDS) submissions

Special guidance for capturing the resident-paid utilities incentive in a HUD-approved energy performance contract on form HUD-52723, Section 3, Part B, Line 01, PUM formula income, is on the Calendar Year 2013 Subsidy Processing web page.

Form HUD-52723, Section 3, Part B, Line 02, PUM change in utility allowances, will be locked for data entry. This line has been obsolete since the "unfreezing" of formula income at the end of CY 2009.

- C. Cost of Independent Audit.** Project audit costs will be pre-populated in the Excel Tool. The pre-populated costs reflect the most recently approved FASS-PH FDS submissions. If a project's most recent actual audit cost differs from the amount pre-populated, the PHA should enter the project's most recent actual audit cost and attach proof of payment to the CY 2013 submission. Independent audit costs are restricted to the audit costs associated with the operating fund program and not costs related to non-public housing units in mixed-finance projects.

- D. Payments in Lieu of Taxes (PILOT).** Project PILOT amounts will be pre-populated in the Excel Tool. The pre-populated amounts reflect the most recently approved FASS-PH FDS submissions. If a project's most recent actual PILOT amount differs from the amount pre-populated, the PHA may enter the project's most recent actual PILOT amount and attach proof of payment to the CY 2013 submission.

E. Asset Management Fee.

- i. PHAs with 250 or more units (400 or more units under the asset management exemption appropriations provisions) must comply with asset management requirements under 24 CFR 990.255 through 990.290, Subpart H -- Asset Management, which includes the requirement to comply with all components of asset management by FFY 2011. Form HUD-52574, PHA Board Resolution, includes a certification that all statutory and regulatory requirements have been met. PHAs not in compliance will forfeit the asset management fee pursuant to 24 CFR 990.190(f). In determining compliance with asset management, FOs will review the PHA's most recent financial submission and other relevant material.
- ii. In general, for PHAs that are in compliance with the regulatory asset management requirements: (1) PHAs with at least 250 units are eligible for a \$4 PUM asset management fee; and (2) PHAs with fewer than 250 units that elect to transition to asset management are eligible for a \$2 PUM asset management fee. PHAs with only one project regardless of the number of units are not eligible for an asset management fee pursuant to 24 CFR 990.190(f).

- iii. If a PHA has opted out of asset management, it must continue to request operating subsidy *for each project shown* in IMS/PIC (i.e., not all projects combined into one) as of the end the reporting period (June 30, 2012).

F. Asset Repositioning Fee (ARF).

- i. PHAs must follow the requirements in 24 CFR 990.190(h) and Notice PIH 2011-18, Guidance on the Asset-Repositioning Fee under 24 CFR 990.190(h) and Guidance on Re-occupying Public Housing Units Proposed or Approved for Demolition, Disposition, or Transition to Homeownership.
- ii. PHAs shall submit supporting documentation detailing the ARF calculation for the requested amount. Supporting documentation must include:
 1. the project number;
 2. identification of the buildings and units approved for demo/dispo/homeownership;
 3. approval date of the demo/dispo application or homeownership plan, whichever is applicable;
 4. date of the first day of the next quarter six months after the date the first unit becomes vacant after the relocation date included in the approved relocation plan;
 5. ARF unit months for the project or building(s);
 6. PEL in effect the first year of ARF funding and the PEL percentage (75% PEL per unit for the first twelve months, 50% PEL per unit for the next twelve months, or 25% PEL per unit for the next twelve months, as per 24 CFR 990.190(h)(3));
 7. relocation date as defined in Notice PIH 2011-18; and
 8. a statement as to whether all units were vacant at the time of the demo/dispo/homeownership plan approval.

FOs may request other relevant information as necessary.

- iii. PHA HUD-52723 submissions must include the number of unit months associated with the ARF on Section 2, Line 12, of the form. All ARF units are considered under the ACC and the associated unit months must be reported on Line 12 to fully support the Section 3, Part A, Line 14 ARF amount.
- iv. ARF requests that do not include all of the items listed above and any other items requested by the FO will not be eligible for subsidy.

G. UEL and Central Office Cost Center (COCC). COCC utility consumption and costs are not included in the calculation of the PHA's/project's UEL on form HUD-52722. If the COCC is located within a project, actual consumption, including the rolling base consumption, and utility costs for the COCC must be excluded from the UEL calculation

for the project. PHAs shall explain the methodology used to calculate the excluded COCC data (e.g., square footage) in Section 10, Remarks, of the form.

Special guidance for excluding (breaking out) COCC utility consumption and costs from combined consumption and costs in a pre-asset management Energy Performance Contract is on the Calendar Year 2013 Subsidy Processing web page.

H. Elderly/Disabled Service Coordinator Program. For CY 2013, the public housing share of the reasonable cost of salary, fringe benefits and administrative costs for the Elderly/Disabled Service Coordinator (EDSC) program is eligible for operating subsidies. Only PHAs previously receiving EDSC funding (not Resident Opportunities and Self-Sufficiency (ROSS) – Elderly and Persons with Disabilities funding) are eligible. Confirm eligibility as posted on the Calendar Year 2013 Subsidy Processing web page.

Funding based on prior EDSC levels includes an annual inflation factor no greater than the local inflation factor on form HUD-52723, Section 3, Part A, Line 02. Enter the subsidy amount for the EDSC program on form HUD-52723, Section 3, Part A, Line 07, “Self-sufficiency” Add-On. Part A, Line 07, "Self-sufficiency" is restricted to the EDSC program and does not include ROSS funding.

I. Moving-to-Work (MTW) PHAs.

- i. MTW PHAs with an alternative operating fund formula agreement shall submit one calculation on a PHA-level basis using the Excel Tools as follows:
 1. HUD-52723: Enter Sections 1 and 2; Section 3, Part C, Lines 01 and 04; and Part D, Lines 01 and 03; and,
 2. HUD-52722: Enter data in accordance with the MTW agreement.
 3. MTW PHAs with alternative operating fund formula agreements shall submit documentation showing and supporting the agreement’s formula as an attachment to the HUD-52723 (which may include forms and unit months referenced in Attachment A of their MTW Agreement).
- ii. MTW PHAs **not** using an alternative operating fund formula shall complete and submit all sections of the form HUD-52723 and the form HUD-52722 on a project-level basis using the Excel Tools as normal.

7. Appeals

A. Types of Appeals. 24 CFR 990.245 establishes five types of appeals:

- i. Streamlined appeal: This appeal requires the PHA to demonstrate a blatant and objective flaw in the application of a specific Operating Fund formula component.

For example, a geographic coefficient is identified with Springfield, IL, when it should be Springfield, MA.

- ii. Appeal of formula income for economic hardship: This appeal is no longer applicable since the frozen formula income provisions of 24 CFR 990.195 expired at the end of 2009.
- iii. Appeal for specific local conditions: This appeal requires the PHA to demonstrate that the model-generated project expense levels (PELs) fail to reflect specific local conditions. To be eligible, the affected PHA must demonstrate, by means of an independent cost assessment, that the model-generated PEL is not accurate for comparable properties in the PHA's market area, with a variance of ten percent or greater.
- iv. Appeal for changing market conditions: A PHA may appeal to receive operating subsidy for vacant units due to changing market conditions after the PHA has taken aggressive marketing and outreach measures to rent these units. The vacancies cannot be the result of action or inaction by PHA management. For example, a PHA located in an area experiencing extreme population loss or economic dislocations may have a shortage of applicants, even with PHA aggressive marketing and outreach.
- v. Appeal to substitute actual project cost data: A PHA may appeal PELs based on actual project cost data under an asset management period of at least two years as outlined in 24 CFR 990 Subpart H – Asset Management. For this type of appeal, the PHA must also submit an independent cost assessment.

B. Appeal Requirements

Pursuant to 24 CFR 990.240, appeals are voluntary and cover the PHA's entire portfolio, not single projects. The Assistant Secretary for Public and Indian Housing (PIH), however, has the discretion to accept appeals of less than an entire portfolio for PHAs with greater than 5,000 public housing units. All other appeals must be based on an impact that affects the entire PHA, not an impact to a single project or set of projects, and any appeals that address single projects and not the entire portfolio will be denied.

For "specific local conditions" and "substitute actual project cost data" appeals, the PHA is to acquire, at its own expense, an independent cost assessment on each public housing project. The assessor must have appropriate knowledge of multifamily operating costs within the local market. The independent cost assessment includes:

- i. Comparable Data: Cited data must be verifiable by HUD with complete source identification. Itemized comparative data must include: locality, occupancy type, building type and PELs. (Refer to Public and Indian Housing *PIC Development Submodule User Manual*, pages 4 – 7, for definitions of building types.)

- ii. Adjustments: Assessments must fully disclose any adjustments made to the comparative data, including the nature of the adjustment, the reason for the adjustment, the adjustment method and citation of source documents.
- iii. Reporting: Assessments must present the entire PHA's portfolio in a table format and include the following for each individual project:
 - 1) Number of units;
 - 2) Occupancy type;
 - 3) Building type;
 - 4) Current PEL; and
 - 5) Appellant's suggested PEL.

Additionally, the PHA should include a table that presents the recommended unit-weighted average PEL for the entire public housing portfolio as compared with the unit-weighted average PEL assigned by HUD.

- iv. For "substitute actual project cost data" appeals, the appeal must include items i, ii and iii above for independent cost assessments and:
 - 1) Two years of actual project cost data, showing that PHA costs are not greater than costs at comparable properties in the PHA's local market; and
 - 2) Documentation certifying the PHA has completed transition to asset management pursuant to 24 CFR 990.290.

C. Processing Requirements for CY 2013

PHA appeals for "changing market conditions" are to be submitted to the appropriate FO along with the PHA's original operating subsidy submission for CY 2013.

For "streamlined" appeals, the PHA must describe the flaw and submit supporting documentation. For "specific local conditions" and "actual project cost data" appeals, the PHA must include the independent cost assessment with its submission. In addition, HUD will contract with a second professional assessor who is familiar with property management practices and costs in the region or state in which the PHA is located to review the initial assessment submitted by the PHA. This review and recommendation is then forwarded to the Assistant Secretary for Public and Indian Housing (or designee) for final determination.

"Streamlined", "specific local conditions", and "substitute actual project cost data" must be sent by email to REAC_OpSub@hud.gov and Andrea.D.Williamson@hud.gov with the subject line "Appeal under 24 CFR 990.245". Appeals must be sent at the same time that the PHA's original operating subsidy submission for CY 2013 is sent to the appropriate FO. The PHA also must provide a copy of the appeal to the Public Housing Director of the FO.

Final appeal decisions will be issued within 120 days of PHA submission to HUD Headquarters. If an appeal is granted, HUD adjusts the PHA's subsidy by the appropriate amount retroactive to the beginning of the year.

8. Mutual Help and Turnkey III Projects

PHAs with a Mutual Help or Turnkey III project(s) requesting operating subsidy for these project(s) must complete and submit form HUD-53087, Calculation of Subsidies for Operations: Non-Rental Housing. The operating subsidy provided to a Mutual Help or Turnkey III project is partially based on the project's operating budget. PHAs requesting operating subsidy for Mutual Help and Turnkey III projects must complete the CY 2013 form HUD-53087 based on the appropriate line items from the latest approved operating budget at the time of the CY 2013 submission and send to the appropriate FO.

9. Rental Assistance Demonstration

PHAs that apply for participation in the Rental Assistance Demonstration (RAD) will still complete their CY 2013 subsidy submissions in accordance with the instructions in this Notice. Any projects that are selected for award and that convert in 2013, i.e., execute a Section 8 Housing Assistance Payment Contract, will terminate their participation in the public housing program in accordance with RAD program instructions. (For further information on the RAD, see Notice PIH 2012-18, Rental Assistance Demonstration – Partial Implementation and Request for Comments.)

10. PHA Board Resolution

The PHA Board Resolution (form HUD-52574) approving the PHA's operating budget must be submitted to the appropriate FO **prior to the beginning of the PHA's fiscal year**. Only one Board Resolution needs to be submitted per PHA, regardless of the number of projects. If the PHA has more than one project, insert the phrase "for all projects" in the first checkbox description. The checkbox then will read "Operating Budget for all projects approved by Board resolution on:" (date).

11. HUD Approval of Calculations

HUD will post on the Calendar Year 2013 Subsidy Processing web page an explanation of its funding methodology and the obligation letters for each set of interim months funded. Based on the FFY 2013 Appropriations Act and PHA operating subsidy eligibility submissions and FO reviews, HUD will determine final operating subsidy levels for CY 2013. HUD then will approve operating subsidy calculations at that level. Final subsidy levels for PHAs will be posted on the same web page.

12. Penalty for false claims and statements

HUD will prosecute false claims and statements. Such false statements and/or entries may be subject to criminal and/or civil penalties (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802).

13. Further Information

All questions from PHAs are to be referred to the appropriate FO.

14. Paperwork Reduction

The information collection requirements contained in this notice have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C.3520) and assigned OMB approval numbers 2577-0026, 2577-0029, 2577-0157 and 2577-0246. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

/s/

Sandra B. Henriquez
Assistant Secretary for Public and Indian Housing