

PUBLIC AND INDIAN HOUSING

Notice PIH 96-56 (HA)

Field Office Public Housing

Directors; ONAP Administrators;

Field Accounting Divisions;

Public Housing Agencies;

Indian Housing Authorities

Issued: July 29, 1996

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Policies and Procedures for Using Modernization Funds for Development Activities and Development Funds for Modernization Activities, and Modernization and Development Funds for Operations

SECTION 1. BACKGROUND

1-1. PURPOSE. This Notice is to transmit to Public Housing Agencies and Indian Housing Authorities (herein referred to as Housing Authorities (HAs)), and to HUD Field Offices (FOs), including Offices of Native American Programs, the policies and procedures for using modernization (MOD) funds for development activities and development (DEV) funds for modernization activities, as well as using MOD and DEV funds for operations. MOD funds mean funds approved under either the Comprehensive Improvement Assistance Program (CIAP) or the Comprehensive Grant Program (CGP). DEV funds mean funds approved under either the Public Housing Development Program or the Indian Housing Development Program. **Note:** Lead-Based Paint Risk Assessment funds may be used only for their originally funded purpose and, therefore, may **not** be used for development or operations.

1-2. STATUTORY AUTHORITY.

A. MOD Funds for Development and Other Activities. Section 201 of the Omnibus Consolidated Rescissions and Appropriations Act (OCRA) of 1996 (P.L. 104-134), enacted April 26, 1996, amended section 14 of the United States Housing Act of 1937 (Act) by adding a new subsection (q), which expands the eligible activities which may be funded with 1996 and prior year

MOD funds. MOD funds may be used for any eligible activity authorized by Section 14 of the Act, by Section 5 of the Act, or by applicable Appropriations Acts, including the demolition, rehabilitation, revitalization, and replacement of existing units and projects. In addition, up to 10 percent of the MOD funds in any fiscal year may be used for any operating subsidy purpose authorized in Section 9 of the Act (see Section 4 of this Notice). Among the expanded eligible activities is the development of dwelling units through either new construction or acquisition, with or without rehabilitation. Such development may include replacement housing, as well as incremental (non-replacement) units. Eligible development activities include:

1. **Additional Funding with No Increase in Units.** MOD funds may be used to provide additional funding for an already funded development program (existing development number) which has not yet reached Date of Full Availability (DOFA), where such funding does not result in any additional units. In this case, MOD funds generally serve the same purpose as development amendment funds. The Department has established DOFA as a cut-off date for additional funding with no increase in units so as not to delay the original development program from proceeding to fiscal closeout.
2. **Additional Funding with Increase in Units.** Subject to the requirements in paragraph 1-3, MOD funds may be used to provide additional funding for an already funded development program (existing development number) where the construction contract has not yet been awarded **or** where the construction contract has been awarded and the increase in units does not exceed 5 units or 10 percent of the original units, whichever is less. The Department believes that this relatively small number of additional units may be added to the original development program through a contract modification to the construction contract. A larger increase in units would not meet the intent of 24 CFR 85.36 regarding full and open competition and would mandate a separate procurement, which may result in the selection of a second contractor; in such case, contract administration would be extremely difficult if there were more than one general contractor working on the same site at the same time. **Note:** If the number of units is increased on a Mutual Help development, the Mutual Help Contribution amount on the development budget shall include \$1,500 for each additional unit and shall be funded from the original reservation amount.
3. **Funding to Build or Acquire Units.** Subject to the requirements in paragraph 1-3, MOD funds may be used to build or acquire units, which are not part of an already funded development program, under a new development project number. **Note:** Instructions for Mutual Help units are provided in Attachment 1.

Note: For CGP formula purposes, units are not counted until they reach DOFA and are under the Annual Contributions Contract (ACC) as of October 1 of the Federal Fiscal Year in which the formula is run.

- B. DEV Funds for Modernization Activities.** Section 201 of the OCRA also permits the use of DEV funds for modernization activities, except DEV funds provided for priority replacement housing. All outstanding DEV funds that were provided for replacement housing or for litigation shall be used for their originally approved purpose. DEV funds provided for MROP may be used for modernization activities, unless previously approved for replacement housing.

1-3. REQUIREMENTS ON USE OF MOD FUNDS FOR DEVELOPMENT.

- A. Public Housing.** Where MOD funds provide incremental units, such units shall be developed under Section 5 of the Act and placed under the ACC. Accordingly, such units shall be counted for purposes of determining operating subsidy and the CGP formula share.

- 1. Section 5(j) Requirements.** Under Section 5(j) of the Act, the Field Office shall approve the use of MOD funds for development activities only if the PHA certifies to HUD regarding one of the following five conditions (a, b, c, d or e):

- a.** Eighty-five percent of its public housing units:

- (1)** are maintained in substantial compliance with the housing quality standards established by HUD; or
- (2)** will be so maintained upon completion of modernization for which funding has been awarded; or
- (3)** will be so maintained upon completion of modernization for which applications are pending that have been submitted in good faith under Section 14 of the Act (or a comparable State or local government program) and that there is a reasonable expectation, as determined by HUD in writing, that the applications would be approved.

- b.** Such development will replace dwelling units that are disposed of or demolished by the PHA, including dwelling units disposed of or lost through sale to tenants or through units redesign; or

- c.** Such development is required to comply with court orders or directions of

the Secretary; or

- d. It has demands for family housing not satisfied by Section 8 for which it plans to construct or acquire projects of not more than 100 units; or
- e. In the case of an elderly development, the use of MOD funds for development will assist in expanding the housing available for eligible persons.

2. Capital Investment Requirement.

- a. Section 9(a)(2) of the Act permits the Department to make operating assistance available only for public housing units that have been "developed" under an ACC authorized by Section 5 of the Act. Section 5 authorizes the Department to make financial contributions to HAs for the development of public housing. Pursuant to Section 201(a) of the OCRA, an HA may now also use Section 14 modernization funds for Section 5 development activities. Thus, under the Act, the Department's contribution of operating assistance to an HA is predicated on the Department's contribution of funds for development, regardless of whether such funds were allocated to the HA under authority of Section 5 or Section 14.
- b. By the same reasoning, a PHA may not use a nominal amount of Federal capital assistance simply to trigger operating assistance eligibility for incremental (i.e., other than replacement) units. As set forth in subparagraph 2a, only units "developed" under Section 5 are eligible for operating assistance under Section 9. Thus, it would subvert the intent of the statute and the structure of the program to commit public housing operating assistance in a manner that is essentially independent of public housing capital assistance.
- c. The Department does not intend, at this time, to set firm rules as to the level or nature of capital investment that a PHA must make in order for housing units to be eligible for public housing operating assistance. Rather, the critical test for determining operating subsidy eligibility should be whether such units could have been developed but for the HA's investment of Federal capital funds. In general, the Department will consider this test to have been met, without further scrutiny, if the HA contributes Federal funds to the new construction or acquisition with or without rehabilitation amounting to at least 50% of the computed total development cost (TDC) for a new development with the same structure type and number and size of units in the market area. A PHA may meet

this test in all other cases (i.e., where it contributes less than 50% of computed TDC), only where it demonstrates to HUD's satisfaction that the PHA's investment of Federal capital funds is necessary to leverage other non-Federal capital funds, and will not be used merely to trigger eligibility for Federal operating assistance.

- d. The Department is aware that these restrictions preclude a PHA from receiving Federal public housing operating subsidies for incremental housing units that would be donated to the PHA, or for which the PHA would contribute a nominal amount of capital funds. However, the Department believes that this result is required by existing law and that a different outcome would require further Congressional action.
3. **Other Requirements.** In addition to the requirements under subparagraphs A1 and A2, the Field Office will approve the use of MOD funds for incremental development activities (i.e., other than replacement housing) only if:
- a. The PHA has no unfunded emergencies or work required to comply with Federal laws (e.g., accessibility for the disabled, lead-based paint testing) or court-ordered settlements at existing developments; and
 - b. The CGP agency's proposed use of MOD funds for development activities is not plainly inappropriate to meeting the modernization needs identified in the Comprehensive Plan; e.g., where the PHA has substantial backlog modernization needs, unfunded emergency work, or work required to comply with Federal laws or court-ordered settlements at existing developments; or
 - c. The CIAP agency is using leftover CIAP funds; i.e., has completed the originally approved modernization work. See paragraph 2-2A regarding use of leftover CIAP funds.
4. **Exceptions.** The requirements of subparagraphs A1, A2 and A3 do not apply to the use of MOD funds for the following development activities:
- a. Replacement units for HUD-approved demolition or disposition where replacement units were not provided through either the Public Housing or Section 8 Programs; or
 - b. Incremental units required to fulfill court-ordered settlements.

B. Indian Housing.

1. **General.** The Area Office of Native American Programs shall approve the use of MOD funds for development activities only if:
 - a. The IHA has no unfunded emergencies or work required to comply with Federal laws (e.g., accessibility for the disabled, lead-based paint testing) or court-ordered settlements at existing developments; and
 - b. The CGP agency's proposed use of MOD funds for development activities is not plainly inappropriate to meeting the modernization needs identified in the Comprehensive Plan; e.g., where the IHA has substantial backlog modernization needs, unfunded emergency work, or work required to comply with Federal laws or court-ordered settlements at existing developments; or
 - c. The CIAP agency is using leftover CIAP funds; i.e., has completed the originally approved modernization work. See paragraph 2-2A regarding use of leftover CIAP funds.

2. **Exceptions.** The requirements of subparagraph B1 do not apply to the following development activities:
 - a. Replacement units for HUD-approved demolition or disposition where replacement units were not provided through either the Indian Housing or Section 8 Programs; or
 - b. Incremental units required to fulfill court-ordered settlements.

1-4. LINE OF CREDIT CONTROL SYSTEM (LOCCS).

- A. Program Areas.** In LOCCS, the Modernization and Development Programs are identified by the following program area identifications, which are used in this Notice:

<u>Program</u>	<u>LOCCS Program Area Identification</u>
CIAP	CIAP
CGP	COMP
Public Housing Development Program	PDEV
Indian Housing Development Program	TIHD

- B. Expanded Access for Field Office (FO) and HA Staff.** Where appropriate, FO

and HA staff should obtain expanded LOCCS access authorization to both the Development and Modernization program areas.

SECTION 2. USE OF MOD FUNDS FOR DEVELOPMENT ACTIVITIES

2-1. GENERAL. Refer to paragraph 1-3 for policy requirements.

- A. Minimum Amount.** The minimum amount of MOD funds from each modernization budget which may be used for development activities is \$5,000. If the amount of MOD funds available is less than \$5,000, the MOD funds should be reprogrammed for other modernization activities; or, in the case of CIAP agencies, the modernization program should be terminated and proceed to audit and closeout, with recapture of the leftover funds; or, in the case of CGP agencies, the MOD funds should be placed into the replacement reserve, where appropriate.
- B. New Account/BLI 1498.** A new Account and LOCCS Budget Line Item (BLI) 1498 have been created to identify, within the modernization budget, MOD funds used for development. The HA shall use Account 1498 to record, as part of the modernization project cost, costs which are incurred for development activities, but are funded by modernization. The HA shall include development costs recorded in Account 1498 in the AMCC for the modernization project which provided the funding.

2-2. REQUIRED MODERNIZATION DOCUMENTS. The HA shall request prior FO approval to use MOD (CIAP or COMP) funds for development activities, as follows:

- A. CIAP Agencies.** CIAP agencies may apply for new CIAP funds to carry out development activities. Where CIAP agencies have already been funded under the CIAP, it is expected that they will carry out the modernization work as originally approved in the CIAP Budgets since the CIAP funds were placed under the ACC on the basis of specific needs. However, leftover funds may be used to fund additional eligible work, including development activities. In either case, the CIAP agency shall submit to the FO the following modernization documents:
 - 1. Revised Form HUD-52825, CIAP Budget,** for use of leftover CIAP funds, including: Part I, showing the MOD funds to be used for development activities in Account 1498; Part II, providing the development project number (new or existing) on which the MOD funds will be used; and Part III, showing any necessary revisions to the implementation schedule. **Note:** For use of new CIAP funds, the HA shall submit a new CIAP Budget, where selected for

funding by the FO;

2. **Form HUD-52820, HA Board Resolution**, approving revised or new CIAP Budget; and
3. **Evidence of resident/homebuyer and local/tribal government consultation.**

B. CGP Agencies. Since CGP agencies do not compete for CGP funds, but receive an annual formula grant, CGP agencies may, with prior FO approval, revise previously approved Forms HUD-52825, CIAP Budget, or Forms HUD-52837, [CGP] Annual Statement, to use CIAP or CGP funds to fund development activities. The CGP agency shall submit to the FO the following modernization documents:

1. **Revised Form HUD-52832, Physical Needs Assessment**, to add the new work category of development;
2. **Form HUD-52825, CIAP Budget (revised), or Form HUD-52837, Annual Statement (revised or original)** including: Part I, showing the MOD funds to be used for development activities in Account 1498; Part II, providing the development project number (new or existing) on which the MOD funds will be used; and Part III, showing any necessary revisions to the implementation schedule;
3. **Form HUD-52836, PHA/IHA Board Resolution**, approving revised or original CIAP Budget or [CGP] Annual Statement; and
4. **Evidence of resident/homebuyer and local/tribal government consultation.** Resident/homebuyer consultation includes consultation with residents and duly elected resident organizations of the developments covered by the Comprehensive Plan; however, no public hearing is required.

2-3. REQUIRED DEVELOPMENT DOCUMENTS. Concurrently with submitting revisions to previously approved modernization documents, the HA shall submit to the FO the following development documents:

A. Where additional funding is being provided for an existing development:

1. **Revised development budget**, as follows:
 - a. **Form HUD-52484, Development Cost Budget/Cost Statement**, on a blank line below line 52, entering Account 1498, Mod Funds for

Development, and on an attachment, describing the development activities to be carried out with MOD funds; or

- b. **Form HUD-53045A, Development Cost Budget**, on line 49, Donations, entering Account 1498, Mod Funds for Development. Account 1498 will share line 49, Donations, solely because there are currently no unused lines on Form HUD-53045A. Where actual donations have previously been entered on line 49, the HA shall enter the total donations and MOD funds on line 49 and itemize the source of funds on page 4, Subpart IV, Detail of Donations (Not MH Contributions) - Itemized. The HA shall describe the development activities to be carried out with MOD funds on the lower portion of page 2. **Note:** MOD funds for development are not considered local contributions or donations and, therefore, are included in the computation of Total Development Cost (TDC). Although in the TDC computation, the MOD funds (Account 1498) are charged to the modernization program and not to the development program.

2. **HA statement regarding the effect of the MOD funds**, when added to previously provided DEV funds, on the TDC of the development. The additional MOD funds provided will be included in the TDC calculation for the development.
3. **If the MOD funds will increase the number of units** in an already funded development program, HA evidence that the additional units are covered by a Cooperation Agreement between the HA and the local governing body. **Note:** The FO shall initiate an ACC amendment to increase the number of units being funded. The FO also shall require the HA to execute and file for record the Declaration of Trust and to provide HUD Counsel with a copy as soon as it has been recorded.

- B. **Where funding is being provided for a new development**, the HA shall comply with all requirements set forth in 24 CFR Part 941 for Public Housing or 24 CFR Part 950, Subpart C, for Indian Housing, including coverage of the units under the Cooperation Agreement and an ACC amendment. The ACC amendment will designate the new development project number, but will not obligate any funds.

2-4. **FO REVIEW AND APPROVAL**. The FO shall review the submission and approve unless:

- A. **The policy requirements in paragraph 1-3** have not been met; or
- B. **The HA has failed to submit all required documents** or has submitted incomplete documents; or

C. **The FO has evidence which tends to challenge**, in a substantial manner, the HA Board Resolution or any certifications or statements.

2-5. **FO ENTRY OF BLI 1498 IN LOCCS**. The following example explains the procedures for FO entry of BLI 1498 and for HA drawdowns against BLI 1498:

A. **Example #1**: The USA HA has been approved to use \$6,000 of COMP-A grant funds for an existing development that is already funded by the PDEV-A grant.

1. The FO accesses the COMP program area and the F01 screen and enters the full 13-digit grant number of COMP-A (e.g, US40P03670393). A menu is then displayed regarding whether the FO wants to (1) redistribute existing MOD funds or (2) use MOD funds for development. When the FO selects (2), LOCCS asks for entry of the 11-digit development grant number (e.g., PDEV-A, US40P036008) and the number of additional units being funded (a number or zero). LOCCS checks that the grant number entered has not yet reached DOFA. The FO then enters an amount into BLI 1498 and revises other BLIs downward so that all the BLIs continue to add up to the total funds originally approved for the COMP-A grant.
2. LOCCS then generates the appropriate Program Accounting System (PAS) transaction to link funds from the existing grant program code to a "new" PAS program code to represent BLI 1498 in PAS. Since PAS requires an overnight update, the funds in BLI 1498 are "pending" PAS confirmation in LOCCS, and are unavailable for disbursement until PAS confirmation is received by LOCCS on the next business day.
3. LOCCS maintains a MOD/DEV grant cross-reference for query and reporting purposes. Queries are enhanced to show the PDEV-A grant when querying COMP-A, and the additional funding from the COMP-A grant when querying PDEV-A.

B. **Example #2**: The USA HA also has been approved to use \$10,000 of CIAP-A grant funds for an existing development that is already funded by the PDEV-A grant. The FO follows the same sequence as in Example #1. The FO accesses the CIAP program area and the F01 screen and enters the full 13-digit grant number of CIAP-A (e.g., US40P03691491). The FO selects the PDEV-A grant and enters zero additional units. The PAS transactions are generated and clear PAS by the next business day.

C. **Example #3**:

1. The USA HA also has been approved to use \$100,000 of COMP-B grant funds to acquire scattered site units for a new development project, PDEV-C. The FO follows the same sequence as in Examples #1 and #2. The FO accesses the COMP program area and the F01 screen and enters the full 13-digit grant number of COMP-B grant (e.g., US40P03670494). The FO enters the 11-digit development grant number for PDEV-C and the number of additional units being funded. The PAS transactions are generated and clear PAS by the next business day. Through Examples #1, #2 and #3, funding for the USA HA is now represented as follows:

Grant Example/Number	Amount of Original Funding	Mod Funds Used for Development Activities
PDEV-A US40P036008	\$1,600,000	COMP-A \$ 6,000 CIAP-A \$ 10,000
PDEV-B US40P036009	\$1,500,000	
PDEV-C US40P036010	-0-	COMP-B \$100,000
CIAP-A US40P03691491	\$ 400,000 PDEV-A (BLI 1498) \$ 10,000 Other BLIs \$390,000	
COMP-A US40P03670393	\$ 600,000 PDEV-A (BLI 1498) \$ 6,000 Other BLIs \$594,000	
COMP-B US40P03670494	\$ 700,000 PDEV-C (BLI 1498) \$100,000 Other BLIs \$600,000	
COMP-C US40P03670595	\$ 500,000	

2. Where an entire modernization grant is being used for one or more development grants, the FO shall first spread the MOD funds to an existing modernization BLI. Then, in a second step, the FO shall move all the funds to BLI 1498. LOCCS generates the PAS transactions for 100 percent of the MOD funds.

2-6. DRAWDOWN PROCEDURES IN LOCCS.

- A. **Example #1:** To draw down MOD funds from the COMP-A grant for the PDEV-A grant, the HA specifies the COMP program area and the Voice Response System (VRS) number for the COMP-A grant. When asked for a BLI, the HA

enters 1498. VRS responds with: "THESE MOD FUNDS ARE TO BE USED ON BEHALF OF THE DEVELOPMENT GRANT PDEV-A." If the COMP-A grant has multiple 1498 funding for multiple development grants, the HA is asked to specify the particular development grant for which the drawdown is being made.

- B. Example #2.** If the HA also needs to draw down funds from the CIAP-A grant for the PDEV-A grant, the HA specifies the CIAP program area and the VRS number for the CIAP-A grant.
- C. Order of Drawdowns.** There is no system edit in LOCCS regarding the order of drawdowns where a development grant is being funded by both DEV and MOD funds. However, the PHA may wish to draw down MOD funds first because of the adverse impact which unexpended MOD funds may have on the PHA's score on component #1 of the Modernization Indicator under the Public Housing Management Assessment Program (PHMAP).
- D. LOCCS Functionality.** Since MOD funds being used for development remain in the modernization grant, they are subject to all the LOCCS edits and requirements for the applicable Modernization program area (e.g., CIAP or COMP), including the requirement to update quarterly obligation and expenditure information. Any suspensions or automatic review of a modernization grant also affects any portion of that grant which is being used for development.

2-7. IMPLEMENTATION AND CLOSEOUT. MOD funds being used for development stay in the modernization grant and are not "transferred" to the Development program area. Although such MOD funds are subject to development programmatic requirements, they are included on the AMCC, **not** the Actual Development Cost Certificate (ADCC), at program closeout.

2-8. ADDING NEW DEVELOPMENT UNITS.

- A. When the new development units reach** the End of Initial Operating Period (EIOP), the FO shall include the units in the calculation of operating subsidy eligibility. The new units are included in the Unit Months Available (UMAs) in the Regional Operating Budgets and Obligations Tracking System (ROBOTS).
- B. At DOFA, the FO shall update the Project Master module** in the Integrated Business System (IBS).

SECTION 3. USE OF DEV FUNDS FOR MODERNIZATION ACTIVITIES

3-1. GENERAL.

- A. Minimum Amount.** The minimum amount of DEV funds from each development budget which may be used for modernization activities is \$5,000. If the amount of DEV funds available is less than \$5,000, the development program should be terminated and proceed to audit and closeout, with recapture of the leftover funds.
- B. New Account/BLI 1499.** A new Account and BLI 1499 have been created to identify, within the development budget, DEV funds used for modernization. The HA shall use Account 1499 to record, as part of the development project cost, costs which are incurred for modernization activities, but are funded by development. The HA shall include modernization costs recorded in Account 1499 in the ADCC for the development project which provided the funding.

3-2. REQUIRED DEVELOPMENT DOCUMENTS. The HA shall request prior FO approval to use DEV funds for modernization activities by submitting to the FO the following development documents:

- A. Revised development budget,** as follows:
- 1. Form HUD-52484, Development Cost Budget/Cost Statement,** entering Account 1499, DEV Funds for Modernization, on a blank line below line 52; or
 - 2. Form HUD-53045A, Development Cost Budget,** entering Account 1499, DEV Funds for Modernization, on line 49, Donations.
- B. HA Board Resolution** approving use of DEV funds for modernization activities; and
- C. Evidence of resident/homebuyer and local/tribal government consultation.** Resident/homebuyer consultation includes, for a CGP agency, consultation with residents and duly elected resident organizations of the developments covered by the Comprehensive Plan or for a CIAP agency, consultation with residents and duly elected resident organizations of the developments affected by the modernization.

3-3. REQUIRED MODERNIZATION DOCUMENTS. Where DEV funds are used for modernization activities, no revision to any active modernization program is required. CGP agencies shall ensure that the modernization activities being funded with DEV

funds are set forth on the Physical Needs Assessment or Management Needs Assessment, as appropriate; if not, CGP agencies shall submit revisions to their needs assessments.

3-4. FO REVIEW AND APPROVAL. The FO shall review the submission and approve unless:

- A. The statutory requirements in paragraph 1-2B have not been met; **Note:** FO approval will be given with the stipulation that no development amendment funds will be provided or additional MOD funds will be allowed at a later date if the remaining funds in the development reservation are insufficient to complete the development program where the construction contract has already been awarded; or**
- B. The general requirement in paragraph 3-1A has not been met; or**
- C. The HA has failed to submit all required documents or has submitted incomplete documents; or**
- D. The FO has evidence which tends to challenge, in a substantial manner, the HA Board Resolution or any certifications or statements.**

3-5. FO ENTRY OF BLI 1499 IN LOCCS. **Example #4** below explains the procedures for FO entry of BLI 1499 and for HA drawdowns against BLI 1499. The County HA has been approved to use \$20,000 of PDEV-X grant funds for modernization.

- A. The FO accesses the PDEV program area and the F01 screen and enters the full 11-digit development grant number of PDEV-X (e.g, CY40P052012). A menu is then displayed regarding whether the FO wants to (1) redistribute existing DEV funding or (2) use DEV funds for modernization. Since DEV funds used for modernization are not associated with a specific modernization grant in LOCCS, the funds are simply tracked in BLI 1499, and in PAS with the new PAS program code.**
- B. Since PAS requires an overnight update, the funds in BLI 1499 are "pending" PAS confirmation in LOCCS, and are unavailable for disbursement until PAS confirmation is received by LOCCS on the next business day. After PAS confirmation, funding for the County HA is represented as follows:**

Grant Example/Number	Amount of Original Funding	DEV Funds Used for Modernization Activities
PDEV-X CY40P052012	\$1,000,000	MOD (BLI 1499) \$20,000
PDEV-Y CY40P052013	\$2,000,000	

3-6. DRAWDOWN PROCEDURES IN LOCCS.

- A. Example #4.** To draw down DEV funds from the PDEV-X grant for modernization, the HA specifies the PDEV program area and the VRS number for the PDEV-X grant. When asked for a BLI, the HA enters 1499.
- B. Order of Drawdowns.** There is no system edit in LOCCS regarding the order of drawdowns where a modernization grant is being funded by both MOD and DEV funds. However, the PHA may wish to draw down MOD funds first because of the adverse impact which unexpended MOD funds may have on the PHA's score on component #1 of the Modernization Indicator under the PHMAP.
- C. LOCCS Functionality.** Since DEV funds being used for modernization remain in the development grant, they are subject to the all the LOCCS edits and requirements for the applicable Development program area (e.g., PDEV or TIHD). Any suspensions or automatic review of a development grant also affects any portion of that grant which is being used for modernization.

- 3-7. IMPLEMENTATION AND CLOSEOUT.** DEV funds being used for modernization stay in the development grant and are not "transferred" to the Modernization program area. Although such DEV funds are subject to modernization programmatic requirements, they are included on the ADCC, **not** the AMCC, at program closeout.

SECTION 4. USE OF MOD AND DEV FUNDS FOR OPERATIONS

- 4-1. GENERAL.** Section 201 of the OCRA permits an HA to use up to 10% of its allocation of MOD or DEV funds in any fiscal year (1996 and prior years) for any operating subsidy purpose authorized in Section 9 of the Act.
- A. To track this new use, HUD has added** a new Account/BLI 1406, Operations, to the Chart of Accounts/LOCCS. For COMP, CIAP, PDEV and TIHD, there is a hard edit for BLI 1406 in LOCCS which will not allow disbursements exceeding 10% of the grant amount.
- B. After the FO spreads or respreads the BLIs** in LOCCS to reflect funds

authorized for BLI 1406, the HA may draw down 100% of the authorized amount for BLI 1406 and place those funds in its Operating Fund. Such funds shall be included on the approved Operating Budget as "Other Income" and may be used for any eligible operating expenditure. Such funds are not included in the operating subsidy calculation since they fall under the exclusion of grants or gifts. For modernization and development purposes, the funds budgeted for BLI 1406 shall be considered obligated and expended at the point of drawdown.

- C. **The offsetting credit for the Account 1406** charged to MOD cost is Account 3000/3690: Operating Income, Other.

4-2. **USE OF MOD FUNDS.**

A. **CGP Agencies.**

1. **The HA is not required to identify** operating needs on its Physical and Management Needs Assessments or to specify actual activities funded from Account 1406 on its Performance and Evaluation Report.
2. **For the 1996 Annual Statement,** the HA may allocate up to 10% of its annual formula grant to Account 1406 to be used for operating expenditures in the HA's approved Operating Budget. Where the FO has already approved the 1996 Annual Statement, the HA may amend its Annual Statement to use funds for this purpose, as set forth in subparagraph A3.
3. **For 1995 and prior year Annual Statements,** the HA may amend the Annual Statement(s) to allocate up to 10% of each annual formula grant for Account 1406, where up to 10% is not yet obligated, to be used for operating expenditures in the HA's approved Operating Budget. The HA shall submit to the FO the revised Annual Statement, Parts I and II only, evidence of consultation with local/tribal government officials and residents and duly elected resident organizations of the developments covered by the Comprehensive Plan, and the HA Board Resolution approving the revision. No public hearing is required. The HA also shall request the FO to respread the existing BLIs, for each grant affected, to show funds authorized for Account 1406.

B. **CIAP Agencies.**

1. **For the 1996 CIAP Budget,** the 10% limit on the use of MOD funds for operations is applied to each individual CIAP grant.
2. **For 1995 and prior year CIAP Budgets,** the HA may request prior HUD

approval to use leftover CIAP funds for operations so long as the percentage of the grant to be used for operations does not exceed 10%.

- 4-3. USE OF DEV FUNDS.** The 10% limit on the use of DEV funds for operations is applied to the total amount provided for the development project, regardless of fiscal year of funding.

/s/ Kevin Emanuel Marchman

Acting Assistant Secretary for
Public and Indian Housing