



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

Special Attention of	Notice	PIH 2008-16 (HA)
Public Housing Agencies		
Public Housing Hub Office Directors	Issued:	March 25, 2008
Public Housing Program Center Directors		
Regional Directors	Expires:	March 31, 2009
Field Office Directors		
Resident Management Corporations		

Cross Reference:

Subject: Guidance on Asset Management Provisions in the Consolidated Appropriations Act, 2008

1. Purpose

Title II of Division K of the Consolidated Appropriations Act, 2008, P.L. 110-161, (approved December 26, 2007), contains two asset management provisions. Specifically:

- SEC. 225: Public housing agencies that own and operate 400 or fewer public housing units may elect to be exempt from any asset management requirement imposed by the Secretary of Housing and Urban Development in connection with the operating fund rule: *Provided*, That an agency seeking a discontinuance of a reduction of subsidy under the operating fund formula shall not be exempt from asset management requirements.
- SEC. 226: With respect to the use of amounts provided in this Act and in future Acts for the operation, capital improvement and management of public housing as authorized by sections 9(d) and 9(e) of the United States Housing Act of 1937 (42 U.S.C. 1437g(d) and (e)), the Secretary shall not impose any requirement or guideline relating to asset management that restricts or limits in any way the use of capital funds for central office costs pursuant to section 9(g)(1) or 9(g)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437g(g)(1),(2)): *Provided*, however, that a public housing agency may not use capital funds authorized under section 9(d) for activities that are eligible under section 9(e) for assistance with amounts from the operating fund in excess of the amounts permitted under sections 9(g)(1) or 9(g)(2).

The purpose of this notice is to provide guidance to public housing agencies (PHAs) regarding the implementation of these two provisions.

For background information on certain terms and concepts included in this notice, e.g., management fees, please refer to PIH Notice 2007-9, Changes in Financial Management and

Reporting Requirements for Public Housing Agencies Under the New Operating Fund Rule (24 CFR part 990), issued April 10, 2007.

2. Effective Date

As a general matter, appropriation act provisions are only effective for the covered fiscal year, unless the Congress makes clear that the provision is intended as permanent legislation through words of “futuraity” (for example, “hereafter” or “after the date of approval of this act”) or if the permanent character of the legislation is otherwise clearly indicated (for example, if the provision would be rendered meaningless unless it were treated as permanent legislation).

Section 225 of the Consolidated Appropriations Act, 2008, regarding the asset management exemption for PHAs between 250-400 units, does not include words of futurity. HUD interprets this section to provide an additional one year extension of the asset management requirements. Accordingly, until further instruction from Congress, section 225 is only effective for Calendar Year (CY) 2008.

Section 226 of the Consolidated Appropriations Act, 2008, regarding funding of central office costs from the Capital Fund Program, includes such words of futurity in its first sentence. Accordingly, section 226 is permanent until amended or removed by Congress.

3. Asset Management Election

Under 24 CFR 990.260(b), PHAs with fewer than 250 public housing units are exempt from asset management. Section 225 of the Consolidated Appropriations Act, 2008, increases the threshold for exemption to 400 public housing units, except for PHAs eligible for a discontinuation of reduction in operating subsidy, i.e., “stop-loss” agencies (see PIH Notice 2007-16 for more information on stop-loss). To be eligible for stop-loss, a PHA must implement asset management. Please note that section 225 does not change other program thresholds. For example, the 250 unit thresholds for Annual Plans and the Public Housing Assessment System (PHAS), particularly with respect to bi-annual reporting/assessments, remain unchanged.

All PHAs with 250-400 units will indicate with their CY 2008 operating subsidy submission whether they either will continue to implement asset management or elect to be exempt from asset management (CY 2008 operating subsidy submissions are to be submitted to HUD by April 25, 2008). If an agency elects to be exempt, it must do so by board resolution.

PHAs with 250-400 units that elect not to implement asset management should consider the following:

- **CY 2008.** The election for exemption is only authorized for CY 2008. PHAs that elect this exemption for CY 2008 are not “grandfathered” for future years.
- **Add-on Fee for Asset Management.** The PHA will not receive the \$4 per unit monthly (PUM) add-on fee for asset management.
- **Fee-for-Service.** The PHA shall not implement fee-for-service (property management fees, bookkeeping fees, asset management fees, etc.). Instead, the PHA shall continue to

allocate overhead costs across federal programs in a manner consistent with OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments. Under asset management, fee income is treated as local income. Under cost allocations, allocated overhead remains subject to program income requirements.

- **Central Office Cost Center (COCC).** The PHA shall not establish a COCC and is not eligible for the 6 months of associated working capital.
- **Single Asset Management Project (AMP).** Except for any mixed finance projects, all PHA units will be combined into one AMP for purposes of measurement and scoring under the PHAS. However, because of the time required to adjust HUD systems, the REAC may need to continue to conduct inspections based on current AMP configurations. In such cases, the results of the inspections will be combined into a unit-weighted average to produce a consolidated score.
- **Project Expense Levels (PELs).** Where the PHA currently has more than one AMP, HUD will calculate a PEL for the newly consolidated AMP. Because of the impact of formula coefficients on the PEL when multiple projects are combined into one project (for instance, a 1.49 percent reduction for projects of 150 or more units), PHAs between 250-400 units that previously had more than one AMP will, on average, have their PELs reduced by \$4.25 PUM. HUD has posted on its asset management website the current and projected PELs for all PHAs that are eligible for this new exemption from asset management.
- **Subsidy and Grants Information System (SAGIS).** Also due to the time needed to modify HUD systems, PHAs that elect to be exempt from asset management, and that previously had more than one AMP, will, for CY 2008, continue to submit a subsidy form for each AMP currently identified in SAGIS.
- **Financial Data Schedule (FDS).** All PHAs are still required to submit the new FDS, beginning with fiscal years ending June 30, 2008; however, a PHA that elects not to implement asset management will report all public housing activity under one AMP.
- **Capital Fund Program Drawdown.** If a PHA elects not to implement asset management, it must draw down Capital Fund Program administrative costs only within 72 hours of expenditure. Under asset management/fee-for-service, a PHA may draw down its entire management fee at time of award.
- **Alternate Asset Management Model.** The alternate asset management model, i.e., conversion without a COCC, is available only for PHAs of less than 250 units (see Chapter 9 of the Supplement to PIH Notice 2007-9).

4. Use of Capital Fund Program Grants to Support Central Office Costs

Section 9(g) of the Housing Act of 1937 permits PHAs to spend 20 percent of the Capital Fund Program grant to operate public housing (100 percent for PHAs with fewer than 250 units). Effectively, these funds are “transferred” to the Operating Fund Program, or operations. Under current asset management guidance, a PHA can transfer Capital Fund Program grant funds to operations to pay for direct project costs such as maintenance or resident services, but not to enable the COCC to charge a management fee higher than otherwise allowed. Section 226 of the Consolidated Appropriations Act, 2008, prohibits HUD from limiting a PHA from using Capital Fund Program grant amounts to pay for public housing central office costs, within the 20 percent limit on operations (100 percent for PHAs with fewer than 250 units). As explained below,

PHAs that utilize section 226 must maintain overhead allocations to demonstrate reasonable costs and must not use fee-for-service for their Public Housing Program. They will report the allocated overhead to each project on a new FDS line item called “Allocated Overhead.” Moreover, to ensure proper program monitoring, including Capital Fund Program grant drawdowns for administration, a PHA must notify HUD by email of its intent to switch to the cost-allocation method for overhead prior to utilizing section 226. The email address is:

REAC_OpSub@hud.gov

General

Under asset management, the COCC charges each project a reasonable management fee, consistent with fees paid in the local market. The COCC also charges a management fee for each program it administers, e.g., the Capital Fund Program, the Housing Choice Voucher Program, etc. These fees are in lieu of overhead allocations. The fees that a project or program pays the COCC are an eligible program expense. The fees that the COCC earns are considered local income, i.e., this income is “de-federalized.” PHAs have until 2011 to comply with the reasonableness standards for management fees, subject to inclusion in the PHA’s Annual Plan of appropriate supporting documentation. These phased-in fees are also de-federalized.

Example of Current Policy

Assume that a project has income of \$100 and that the COCC charges the project a “reasonable” management fee of \$30 (the term “reasonable” here includes the phased-in fee through 2011). The PHA then transfers \$15 from the Capital Fund Program to operations. The project now has \$115 in revenue, all of which is subject to Operating Fund Program rules (once transferred, capital funds lose their identity and are controlled under the rules of the Operating Fund Program). Under existing asset management guidance, the project can use the higher revenue to support direct project costs such as utilities or security, but not to charge a management fee higher than otherwise allowed.

Application of Section 226

Section 226 permits a PHA to use the Capital Fund Program to pay for central office costs of the Public Housing Program, provided the PHA does not transfer more than 20 percent of the Capital Fund Program grant for operations (100 percent for PHAs with fewer than 250 units). Section 226 cannot be read, however, to obviate the requirements under OMB Circular A-87 for costs to be reasonable and necessary.

When a PHA complies with the established procedures for charging reasonable management fees (including the phased-in or transition fees), it satisfies the reasonable and necessary standards of A-87, which permits that fee income to be de-federalized. If a PHA chooses not to use fee-for-service, the PHA must maintain an overhead allocation system and can only charge actual costs, subject to the reasonable and necessary standards of A-87. In the actual costs approach with the limit of section 226 to a maximum of 20 percent of the Capital Fund Program grant, there would not be fee income that is de-federalized. For purposes of the year-end financial reporting, PHAs

will use a new “Allocated Overhead” line item on the FDS and should not charge a management fee, bookkeeping fee, or asset management fee.

PHAs that utilize section 226 are further instructed that:

- A statutory and regulatory condition of using Capital Fund Program grants for operations is that the PHA includes this election in its PHA Annual Plan, which is submitted to HUD annually for approval.
- Capital Fund Program grants can only be used to support the operations of public housing. Capital Fund Program grants cannot be used to support operations of the Housing Choice Voucher Program or other programs.
- If a PHA utilizes section 226, it may not collect other fees allowed under asset management, such as the fee for mixed-finance development, the Capital Fund Program management fee, and the voucher management fee.
- Section 226 does not permit a PHA to exceed the statutory limitation of 20 percent of the Capital Fund Program grant for transfers to operations for PHAs with 250 or more units.
- Section 226, as stated previously, is applicable to the Capital Fund Program grant for Federal Fiscal Year 2008 and to grants provided in subsequent years.
- PHAs that have already drawn down a Capital Fund Management Fee under fee-for-service, and now wish to convert to an allocation method for overhead, will need to refund the fee advance and charge back actual costs.
- A PHA’s change from “fee-for-service” to “allocated overhead” during a fiscal year may constitute a change in accounting principle and require special considerations, including a restatement of beginning net assets. It may also increase the risk of an auditor rendering other than an unqualified audit opinion. As such, PHAs should communicate with their auditor if planning to change from fee-for-service to allocated overhead within defined financial reporting periods.

For more information about this notice, please contact Gregory A. Byrne, Director, Financial Management Division, Real Estate Assessment Center, at 202-475-8632, or by e-mail to Gregory.A.Byrne@hud.gov.

/s/

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