

Fiscal Year 2008 Capital Fund Grants Processing Guidance

Overview. This guidance provides Public Housing Agencies (PHAs) and HUD Field Offices with information and procedures for processing the Fiscal Year 2008 Capital Fund Program Grants. The Department increased the performance reward from 3 percent of the base formula amount to 5 percent of the base formula amount in accordance with Section 905.10(j) of the Capital Fund regulations. In FY 2008 the Department will be awarding a 5 percent Public Housing Assessment System (PHAS) performance reward for PHAs that are High Performers. As explained in the [July 27, 2007 letter](#) to PHA Executive Directors, PHAs that would have received a performance reward in the FY 2007 Capital Fund allocation will receive that performance reward in FY 2008. The Department issued Notice PIH 2008-7 (HA) which required Executive Directors of PHAs or an authorized subordinate staff person to certify to the accuracy of the building and unit data in the Public and Indian Housing Information Center (PIC) system used to calculate the formula for allocating Capital Fund grants. For more information on a specific topic, click on the titles identified below:

- FY 2008 Capital Fund Calculation
- Certification of Accuracy of Data in PIC
- High Performer Performance Reward
- FY 2008 Capital Fund Distribution
- Retrieval and Submission of the ACC Amendments
- Failure to Submit ACC Amendments by the Due Date
- PHA Rejection of Capital Fund Grants(s)
- Replacement Reserves – BLI 1490
- Obligation and Expenditure Deadlines and Sanctions
- Failure to Obligate RHF Grant(s)
- Requests for Extension of the Obligation Deadline
- FY 2008 Replacement Housing Factor Grants

FY 2008 Capital Fund Calculation. The Capital Fund formula was calculated in accordance with the regulation found at 24 CFR Section 905.10. The Capital Fund formula was computed based on data on buildings and units as reported in the PIC system as of September 30th of the prior fiscal year which is “the reporting date” designated by HUD. PHAs are required to maintain accurate PIC data. The Capital Fund will be calculated using PIC data as of September 30th each year unless otherwise directed.

Certification of Accuracy of Data in PIC. In FY 2008, the Office of Public and Indian Housing had a process for PHAs to certify that the data contained in the PIC system that is to be used in calculating the Capital Fund formula is accurate. The certification process is described in Notice PIH 2008-7 issued January 24, 2008. The Capital Fund formula is codified in 24 CFR Section 905.10. The Department bases its formula calculation extensively on data submitted to HUD by PHAs in the PIC system. PHAs are

required to accurately report data in the PIC system in accordance with Section 15(b) of the Annual Contributions Contract with HUD (Form HUD 53012A, 7/1995 version). Additional information including a step-by-step guide of the certification pages in PIC is posted to the HUD PIH website at:

<http://www.hud.gov/offices/pih/programs/ph/capfund/index.cfm>

High Performer Performance Reward. In FY 2008, for the first time, the Department is providing PHAs that are High Performers with a performance reward of 5 percent along with a share of the funds recaptured in accordance with 24 CFR 905.120(c)(3). The Department provided PHAs that were High Performers with a 3 percent performance reward beginning in FY 2002 through FY 2006. Section 905.10(j) authorizes the Department to increase the performance reward from 3 percent to 5 percent after the first five years. As explained in the July 27, 2007 letter to PHA executive directors, PHAs that would have received a performance reward in the FY 2007 Capital Fund allocation will receive that performance reward in FY 2008. As required by the regulation, the Capital Fund formula uses the Public Housing Assessment System (PHAS) ratings for the determination of High Performer. The High Performer ratings for the FY 2007 Capital Fund allocation were based on the Real Estate Assessment Center (REAC) ratings and scores for FY 2005 and FY 2006. For your reference, the list of PHAs that would have qualified as High Performers for FY 2007 Capital Fund formula distribution are posted on the HUD PIH website referenced above.

The table below identifies the PHAS score that will be used for the FY 2008 and FY 2009 Capital Fund by the fiscal year end of the PHA.

PHAS Scoring for High Performers and Capital Fund Distribution

PHA Fiscal Year End	PHAS Score for FY 2008 Reward Based on REAC	PHAS Score for FY 2009 Reward Based on REAC
December 31 st	Fiscal Year 2005 score	Fiscal Year 2006 score
March 31 st	Fiscal Year 2006 score	Fiscal Year 2007 score
June 30 th	Fiscal Year 2006 score	Fiscal Year 2007 score
September 30 th	Fiscal Year 2006 score	Fiscal Year 2007 score

As in prior years, small PHAs are covered under the Small PHA Deregulation. Therefore for small PHAs, REAC uses the agencies latest PHAS score to determine the High Performer status.

Under the Capital Fund formula described in section 905.10 of the regulations, the funds for the performance reward are deducted from the non-High Performers and given to the High Performers. In FY 2007 the Capital Fund formula grants for non-High Performers increased because the Department did not fund a performance reward. Subsequently, the provision of a performance reward in FY 2008, the increase in the amount of the performance reward from 3 to 5 percent and the slight decrease in the

Capital Fund appropriations, will most likely result in a decrease in the Capital Fund formula grant for the non-High Performers. However, section 24 CFR 905.10(j)(2) of the Capital Fund regulation includes a mechanism which will ensure that any increases in the amount of appropriated funds going to the performance reward will not reduce the non-High Performer grant(s) below 5 percent of their base formula. In general these changes to Capital Fund grants relating to the calculation of the High Performer rewards will result in an increase in the amount for the High Performers and a decrease in the amount for Standard Performers.

In accordance with 24 CFR 905.120(c)(3) of the regulations, High Performers will also receive their share of the funds recaptured from PHAs that failed to comply with Section 9(j) of the Act and 24 CFR 905.120 of the regulation.

FY 2008 Capital Fund Distribution. HUD prepares the ACC Amendment(s) for each grant. As in prior years, the ACC Amendments for the Capital Fund grants will be made available electronically on the HUD PIH website, at:

<http://www.hud.gov/offices/pih/programs/ph/capfund/index.cfm>

We recommend that you bookmark this link for future reference. The Department is also sending each PHA an email (based on PHA email addresses in the PIC system) with the link to this website indicating the date the ACC Amendments will be available. The Department will post a timeline on the HUD PIH website, which establishes the date all ACC Amendments are to be received by the local HUD Office and a single date for the local HUD Office to execute all received ACC Amendments.

- In some instances, a PHA may have as many as three grants and, therefore, three ACC Amendments (e.g., an ACC Amendment for the formula grant, an ACC Amendment for the first increment Replacement Housing Factor (RHF) grant, and an ACC Amendment for the second increment RHF grant).

Retrieval and Submission of the ACC Amendments. It is important that PHAs follow the timeline provided by the Department to obligate the funding. Therefore, PHAs are responsible for:

- retrieving all the PHA's ACC Amendments from the website,
- signing and dating 3 original copies of the ACC Amendment for each Capital Fund grant, and
- ensuring that the ACC Amendments are mailed in time to be received in the local HUD Field Office by the June 6th. The ACC Amendments must have original signatures and dates; therefore, facsimile copies of the ACC Amendment(s) are not an acceptable submission.

By signing the ACC Amendment the PHA is agreeing to comply with the Capital Fund Program statute i.e., Section 9(j) of the Act and the regulations including 24 CFR Parts 905, 968, and 941. Since RHF grants are funded with the Capital Fund appropriation, these grants are also subject to the statutory and regulatory requirements on obligation and expenditures.

Failure to Submit ACC Amendments by the Due Date. ACC Amendments submitted to the Field Office after the established deadline will be obligated by the Department at a later time. However, the PHAs must be aware that the obligation start date for these grants will not be modified. Consequently, PHAs that submit their ACC Amendment after June 6, 2008 will have less than 24 months to obligate 90 percent of the Capital Fund grant and less than 48 months to expend these funds.

PHA Rejection of Capital Fund Grant(s). If a PHA elects to reject any Capital Fund grant(s), the executive director must send a written statement to the local HUD Field Office which identifies the grant number of the grant(s) to be rejected.

Replacement Reserves – BLI 1490. Under Section 9 of the Act, PHAs no longer have the statutory authority to accumulate Capital Fund grants in a replacement reserve. In FY 2008, no Annual Statements for this fiscal year should be approved with a budget that includes replacement reserve (BLI 1490). For more information on replacement reserves, click on the title identified below.

- **[Guidance on Replacement Reserves](#)**

Obligation and Expenditure Deadlines and Sanctions. Section 9(j) of the Act and 24 CFR 905.120 of the regulations require that a PHA obligate 90 percent of a Capital Fund grant within 2 years of the date the funds are made available and expend 100 percent of the grant within 4 years of the date the funds are made available. Failure to meet the obligation or expenditure deadlines will result in penalties for the PHA. These obligation and expenditure requirements apply to formula, Replacement Housing Factor and disaster grants. In addition, to the requirements in the regulation and the statute, PHAs are required by the regulation and the ACC Amendment to report the obligation and expenditure for each open Capital Fund grant or any grant that has not been audited in the Line of Credit Control System (LOCCS) on a monthly basis. PHAs should report obligation and expenditure information in a timely manner.

The LOCCS system provides PHAs and the HUD Field Offices with alerts and warnings regarding late reporting and impending obligation and expenditure deadlines. Monthly reporting is completed by the PHA, consequently, when the PHA reports in LOCCS it is certifying to the accuracy and validity of the information. PHAs that report obligating 90 percent or greater for a Capital Fund grant after the obligation deadline, will be required to provide written evidence of the obligation to the HUD Field Office.

Failure to comply with the statutory and regulatory obligation and expenditure requirements will result in.

- a PHA's Capital Fund grants being suspended in LOCCS, and
- the imposition of sanctions as further described in the regulation.

When a Capital Fund grant is suspended the PHA will not have access to its funds until such time as the suspension is lifted by Headquarters.

Failure to Obligate a RHF Grant. If the Department determines that a PHA failed to obligate 90 percent of a RHF grant by the obligation deadline, the sanctions and penalties in the statute and regulation will apply to the RHF grant. However, in the instance where the PHA will not receive a RHF grant in the fiscal year following HUD's determination of noncompliance, then the Department will recapture all of the RHF grant(s) that were not obligated by the obligation deadline.

Requests for Extension of the Obligation Deadline. The obligation deadline for a Capital Fund grant may only be extended with the written approval of the Secretary, Deputy Secretary or Assistant Secretary. The local HUD Field Offices do not have the authority to extend the obligation deadline. The justifications for extension of the obligation deadline which are taken from the statute are limited. See the website for a discussion of the criteria for extensions of the obligation deadline, and the process for requesting such an extension.

There is no provision in the Act to extend the expenditure deadline date, except where the Secretary, Deputy Secretary or Assistant Secretary has approved an extension of the obligation deadline.

FY 2008 Replacement Housing Factor Grants.

First Increment RHF Grants. First increment grants are automatically awarded to all eligible PHAs. PHAs receiving first increment RHF grants in FY 2008 will have the ACC Amendments for those RHF grants along with the ACC Amendments for the FY 2008 formula grants available on the HUD PIH Website.

- **Not Accumulating RHF Grants.** If the PHA is not planning to accumulate its RHF funding prior to obligating it for a development activity (e.g., new development or acquisition), the PHA is not required to submit an RHF Plan for HUD approval. The obligation and expenditure deadlines for RHF grants that are not being accumulated are set to a standard 2 year, 4 year timeframe in the same way the deadlines are set for the PHA's formula grants.
- **Accumulating RHF Grants.** If a PHA elects to accumulate up to five years of RHF grants, it must submit a RHF Plan to the local HUD Field Office for approval. In this instance the obligation start date for all the RHF grants being accumulated will be established based on the number of

years of accumulation and will likely be delayed, that is the obligation start date will not be the same as the obligation start date for formula grants awarded in the same fiscal year. Guidelines for preparing an RHF Plan can be found at the HUD PIH website.

Second Increment RHF Grants. The Department has posted a list to the HUD PIH website of PHAs that are eligible to receive a new second tier of second increment RHF beginning in FY 2008.

- Both PHAs eligible for a first tier of second increment RHF in 2008 for the first time and PHAs currently receiving second increment RHF grants that are eligible to receive a new tier of second increment in FY 2008 will have their ACC Amendments available on the HUD PIH website along with the FY 2008 formula grants.
- PHAs eligible for second increment RHF for the first time in FY 2008, must submit an RHF Plan to the local HUD Field Office for approval by June 30, 2008 in order to have access to the Second Increment RHF grant(s) for the affected units.
- PHAs eligible for a new tier of second increment funding that are already receiving second increment RHF funding have the option of updating their existing second increment RHF Plan to address the new funding, or submitting a new Second Increment RHF Plan.
- If a PHA fails to submit a Second Increment RHF to the local Field Office by June 30, 2008, it will result in the reserved amount being dereserved or recaptured.