



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

PRINCIPAL DEPUTY ASSISTANT SECRETARY
FOR PUBLIC AND INDIAN HOUSING

OCT 21 2016

Dear Executive Director:

The Public Housing program is an essential resource for some of the nation's most vulnerable families. HUD strongly supports the efforts of public housing agencies (PHAs) to further the goals of providing quality affordable housing, increasing the health and safety of homes and improving energy efficiency in public housing buildings.

Title XIII of the Energy Policy Act of 2005 authorized the IRS to enact Section 179D of the IRS code to provide cost savings in the form of a tax deduction with respect to energy efficient commercial buildings. However, recognizing that government entities typically do not pay federal income taxes, and have no use for the deduction, Section 179D allows an incentive for designers of government buildings to benefit from the deduction. Section 179D(d)(4), is the provision that allows for the allocation of the tax deduction by government entities to qualifying third party designers of energy projects. These designers include, but are not limited to architects, energy consultants, energy service companies or engineers.

Recently, the Department has been made aware by Congressional inquiry that some state and local government entities, which possibly includes PHAs, have taken the position of not issuing Section 179D allocation letters to eligible third parties without receiving a benefit in return. The allocation letters were not meant to serve as an opportunity for a state or local government official to engage in the practice of seeking any benefit as a condition of issuing an allocation letter. This approach runs counter to the intent of the Section 179D provision and is not supported by the Department.

While HUD encourages PHAs to consider utilizing the Section 179D tax deduction provisions, they should follow IRS guidance or consult with a tax advisor or legal counsel as the Department does not provide tax advice.

Sincerely,

A handwritten signature in black ink, appearing to read "Lourdes Castro Ramirez", with a long horizontal line extending to the right.

Lourdes Castro Ramírez
Principal Deputy Assistant Secretary
for Public and Indian Housing