

FREQUENTLY ASKED QUESTIONS (FAQ)

Financial Reporting Under the New Operating Fund Rule Release 1.0 December 1, 2006

On September 6, 2006, the Department issued two companion documents providing guidance related to financial reporting under the final rule on the Operating Fund Program:

- PIH Notice 2006-33, Changes in Financial Management and Reporting Requirements for Public Housing Agencies Under the New Operating Fund Rule (24 CR 990). This notice included a “Supplement” to HUD Handbook 7485.1, REV., CHG-1, Financial Management Handbook; and
- Federal Register notice (71 FR 52710), Public Housing Operating Fund Program; Guidance on Implementation of Asset Management.

These notices were issued as interim guidance, with a 60-day comment period. The Department is currently reviewing comments and will soon issue formal responses. This document provides certain technical clarifications and/or responses to questions raised in regard to these two notices. It is anticipated that one or more additional FAQs will be issued on this subject matter, which the Department will post on its public housing asset management web site at:

www.hud.gov/offices/pih/programs/ph/am/

1. For public housing agencies (PHAs) that are either required to convert to asset management, or voluntarily convert, the PHA must establish a central office cost center (COCC) as the reporting unit for certain fee income. Can a PHA receive local funds to support this COCC?

Yes. A PHA can support the COCC with local funds. For example, assume that a PHA owns a tax-credit project, which generates excess cash. The PHA could use the excess cash from the tax-credit project to support the COCC. The only exception to this provision is where an agency applies for “stop-loss.”¹ Agencies applying for stop-loss cannot demonstrate successful conversion to asset management through receipt of a local grant (not earned income) intended solely for the purpose of supporting the COCC.

Reference: See Table 6, Element 3(c) and Section 7.2 of the Supplement.

¹ Under Section 990.230(d) of the final rule on the Operating Fund Program, a PHA whose funding declines under the new formula can have its losses stopped by demonstrating a successful conversion to asset management, i.e., stop-loss.

2. Must a PHA receive HUD approval of the COCC budget?

No. HUD does not approve COCC budgets. COCC revenues are considered “non-federal” and, therefore, are not subject to HUD review. (The only exception, again, applies to agencies applying for stop-loss. In these instances, HUD will review the COCC budgets to determine overall financial feasibility.)

Reference: See Table 4.1, line number 1, of the Supplement.

3. For HUD’s multifamily housing programs, each field office is instructed to update its management fee schedules every two years. The Supplement permits PHAs to use these fee schedules published by each HUD multifamily program center or to use the 80th percentile of management fees paid in each program center, i.e., Attachment A to the Supplement. How frequently will HUD publish this “80th percentile” schedule?

Yes. The Office of Public and Indian Housing (PIH) intends to update these alternate schedules (the 80th percentile method) annually.

4. Does the new Operating Fund Program rule (and associated guidance) limit the funds that a PHA can spend on resident services and programs?

No. Resident services and programs are an allowable expense under the Operating Fund Program. The new rule does not affect resident programs. PIH Notice 2006-33 does encourage PHAs, to the greatest extent possible, to provide for the accounting of costs at a project level. However, to the extent that a PHA incurs certain centralized costs of resident programs, a PHA can prorate those costs across projects on a reasonable basis.

Reference: See Section 7.10 of the Supplement.

5. Can a PHA choose to employ certain supervisory staff through the COCC (i.e., its fee income) if such employees are not eligible to be charged as a front-line cost?

Yes. HUD does not approve the COCC budget or control the use of fee income. For example, a PHA previously operated a centralized maintenance operation, employing a “grounds maintenance supervisor.” Assume that the PHA, under site-based management, decided to retain that individual (the supervisor) in a technical assistance capacity, but funded with management fee. While this position could not be charged as a front-line expense, the PHA has complete authority to employ personnel it determines necessary with its fee income.

Reference: See Section 7.2 of the Supplement.

6. Can a PHA use the Capital Fund Program grant to pay for the operating cost of a project(s)?

Yes. Section 9(g)(1) (42 U.S.C. 1437g(g)(1)) of the United States Housing Act of 1937 (1937 Act) permits PHAs to use not more than 20 percent of a Capital Fund Program FY grant for activities that are eligible under section 9(e) of the 1937 Act (Operating Fund eligible activities) and only if the agency plan for the PHA provides for such use. Therefore, if a PHA needs to assist more Operating Fund eligible activities (e.g., to pay for additional maintenance or security expenses), it can do so up to 20% of a Capital Fund Program FY grant. However, a PHA may not use a Capital Fund Program grant to support the COCC beyond a yearly 10 % Capital Fund Program management fee.

Reference: See Section 5.4 of the Supplement.

7. My PHA has 350 units of scattered sites that have been approved as one AMP (they are concentrated in one neighborhood). The agency maintains a warehouse to serve these scattered site units. Can the cost of this warehouse be charged as a front-line expense of the AMP/project?

Yes. In this circumstance, the warehouse is actually this project's "storeroom" and would be an eligible front-line expense. More broadly, scattered site programs can present unique management challenges and organizational arrangements. As such, PHAs are encouraged to talk with their Field Offices about special implementation concerns and approvals.

8. Small PHAs (less than 250 units) are not required to convert to asset management. Are they still permitted to spend 100% of their Capital Fund grant on Operations?

Yes. The new Operating Fund rule does not change the ability of a small PHA to use 100% of its Capital Fund on Operations, i.e., "fungibility." (42 U.S.C. 1437g(g)(2)).

9. When can a PHA begin to implement the new fee-for-service arrangements?

A PHA must adopt project-based budgeting/accounting for fiscal years beginning July 1, 2007, and thereafter. While the PHA will use a fee-for-service in its first year, a PHA need not be compliant with the cost reasonableness standards until the second year of project-based budgeting/accounting. Consequently, in the first year of project-based budgeting/accounting, any COCC that cannot manage under these fees may (1) use other non-program income (including any initial working capital of the COCC) to offset any COCC deficit or (2) maintain an allocation system to apportion overhead to appropriate programs/projects. Thus, if a PHA feels that its COCC costs will exceed the permitted fees in the first year of project-based budgeting/accounting, it should continue to maintain allocation systems in that first year (in order to determine the appropriate overhead to allocate to each program/project).

Under the Capital Fund program, a PHA must continue to charge “actual” costs for any Capital Fund 2006 and prior-year grants. For 2007 Capital Fund grants and onward, a PHA can begin charging “actual” costs until the beginning of its first fiscal year under project-based budgeting/accounting, at which point it will convert to fee-for-service. For example, assume that a July PHA receives its 2007 Capital Fund grant in April of 2007. In April, it begins charging actual costs for “Administration.” In July, it would switch to a fee-for-service (management fee approach) for the administration of its 2007 Capital Fund grant. For the 2007 Capital Fund grant, the PHA could not exceed 10% of the grant amount in its combination of actual costs and the fee for services.

A PHA cannot begin fee-for-service prior to its requisite initial compliance year of project-based budgeting/accounting.

Reference: See Section 1.4 of the Supplement. Also, see paragraph 10 of Notice PIH 2005-34.

- 10. The Federal Register notice (71 FR 52710) indicates that the “notice clarifies and provides interim guidance pertaining to various aspects of public housing’s conversion to asset management.” However, PIH Notice 2006-33 states that the “information and instructions found in this document are considered program requirements.” Which document/language is controlling?**

The language in the Federal Register notice is correct. PIH Notice 2006-33 should have contained the same language. The Department regrets the confusion, which will be corrected in a revised notice following review of public comments. In the event of any inconsistencies between the Federal Register notice and PIH Notice 2006-33, PHAs should abide by the former. PIH Notice 2006-33 was issued to assist PHAs in understanding the types of financial management changes that will need to be made by PHAs on full implementation of the final rule. It was issued as an interim planning document for PHAs.