



AHACPA PHA Conference

June 17-18, 2019

PIH Update

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Topics

- **Update on HUD OIG Recommendations on COCC**
- **COCC Fee Reasonableness and Other Compliance Risks**
- **Eligible Activities of the Operating Fund and Capital Fund**

IMPACT OF NEW LAWS

- **HUD's Implementation of HOTMA Provisions**
 - Sec. 101. Inspections
 - Sec. 102. Income Reviews
 - Sec. 103. Limitation – Over-Income Families
 - Sec. 104. Limitation - Assets
 - Sec. 106. Project-Based Assistance
 - Sec. 109 Capital & Operating Funds Flexibility & Reserves
- **HUD's Implementation of Economic Growth Act Provisions**
 - Small Rural PHA Assessment
 - Utility Consumption Adjustments for Small and Predominantly Rural PHAs
 - Changes to Family Self-Sufficiency Program
- **FASS-PH System**



OIG Recommendations: COCC Update

OIG Reports – COCC

- **OIG Report issued in 2014 (2014-LA-0004) found that HUD could not support the reasonableness of the COCC fees and did not adequately monitor the COCCs, resulting in PHAs having “excessive and unsupported charges.”**
 - Another HUD OIG report issued in 2012 made similar findings related to the fees charged by the COCC to the HCV program (2012-LA-0001)
- **OIG’s Recommendations to Close the Findings – HUD should:**
 - Eliminate the asset management fee
 - Establish and implement procedures to re-assess the COCC fees periodically to ensure that they are reasonable. HUD should retain the documentation justifying the calculation of the rates
 - Improve the monitoring over the fees a PHA can charge and the use of the fees
 - Revise asset management policy to re-federalize Section 8 (HCV) & Section 9 (Operating & Capital Funds)

OIG Reports – COCC (cont.)

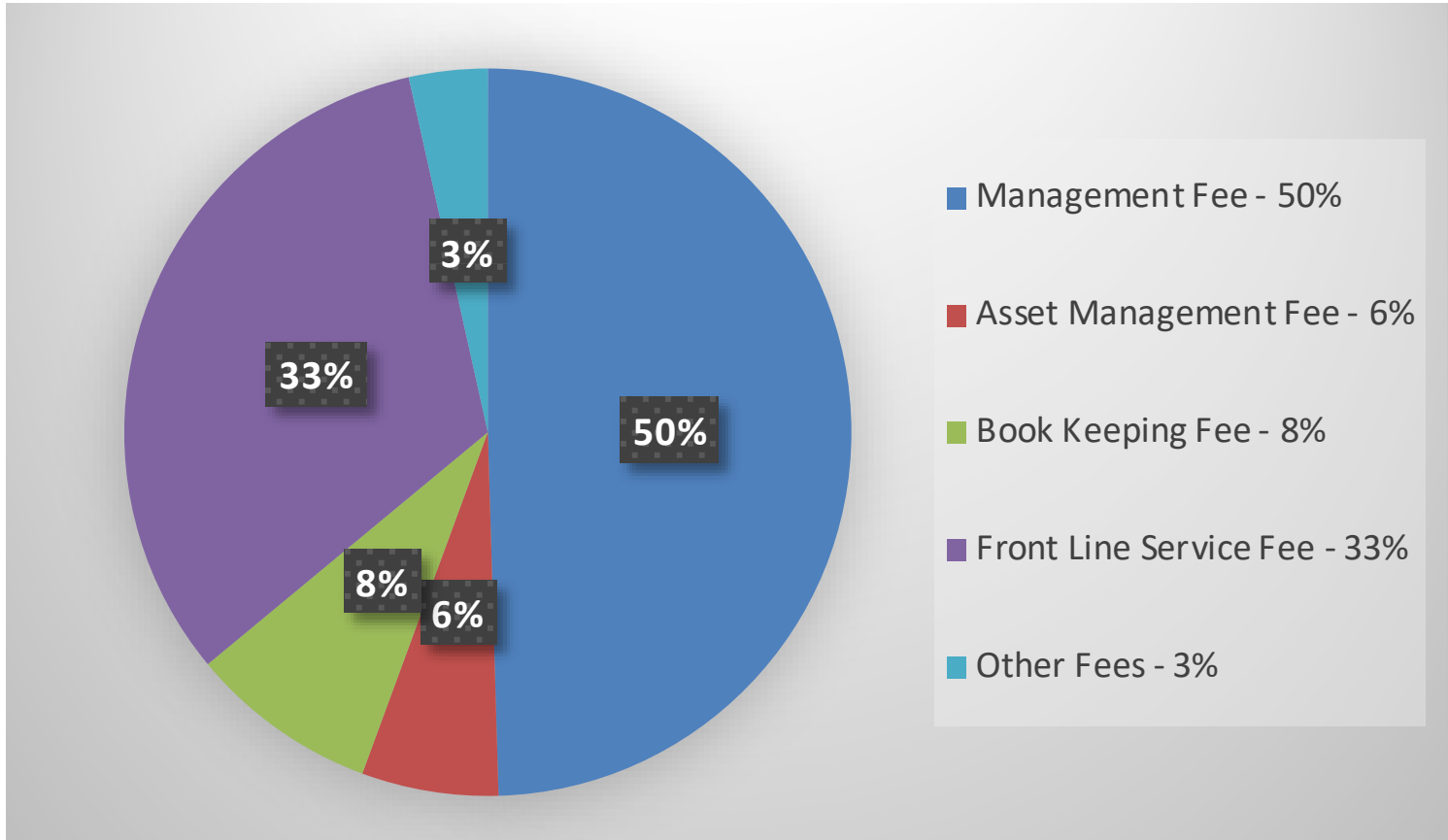
- HUD initially accepted OIG's recommendations. HUD's intent was to keep asset management essentially intact and HUD thought that the actual impact would be minor. As such, HUD agreed to:
 - Review fee schedule to ensure that the allowed fee rates are reasonable and current
 - Improve HUD's monitoring over the fees charged and the use of the fees
 - **Re-federalize Section 8 & 9 fee income, but allow for**
 - Full fungibility of Section 8 & 9 fee income to Section 8 & 9 programs
- HUD convened 4 listening sessions (October to December 2016) to:
 - Better understand the activities funded with COCC fee income
 - Impact of re-federalization on PHA's operations
 - Determine the scope of policy and guidance that HUD will need to issue to implement the OIG's recommendations
- Based on this greater understanding of the consequences, HUD re-opened discussions with the OIG in 2018

Current COCC Portfolio

PHAs with COCC by State				
#	State Name	PHAs w/ COCC	Combined Units	COCC Revenue
1	Pennsylvania	46	95,358	\$ 83,545,896
2	Illinois	38	60,120	\$ 39,930,370
3	New York	34	328,934	\$ 767,054,590
4	New Jersey	31	64,941	\$ 51,913,865
5	Alabama	30	54,728	\$ 29,612,049
6	Florida	27	98,422	\$ 52,015,738
7	Ohio	26	115,977	\$ 94,661,369
8	Tennessee	26	45,581	\$ 34,508,631
9	California	25	206,291	\$ 103,995,423
10	Georgia	24	57,796	\$ 26,777,622
11	North Carolina	24	55,874	\$ 40,906,552
12	Texas	19	110,725	\$ 75,045,474
13	Massachusetts	18	75,305	\$ 71,671,778
14	Indiana	17	37,151	\$ 18,121,569
15	Michigan	17	29,958	\$ 15,222,955
16	Connecticut	16	34,122	\$ 25,421,863
17	Kentucky	14	28,655	\$ 19,196,607
18	South Carolina	14	25,469	\$ 12,300,996
19	Virginia	14	44,849	\$ 41,478,967
20	Louisiana	13	42,236	\$ 22,002,757
21	Mississippi	11	15,504	\$ 9,509,095
22	Washington	10	46,312	\$ 54,206,252
23	Minnesota	8	26,392	\$ 18,061,996
24	Rhode Island	8	13,259	\$ 12,659,200
25	Wisconsin	8	14,662	\$ 11,227,385
26	All Other	74	291,380	\$ 27,285,337
	Total	592	2,020,001	\$1,758,334,336

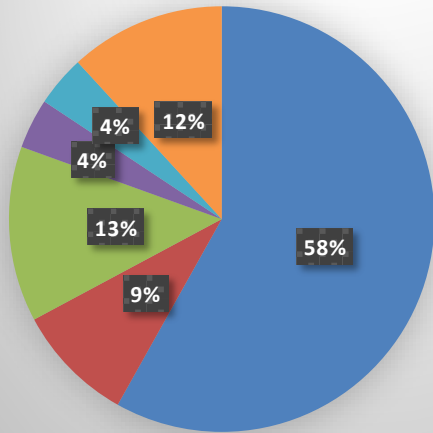
- 592 PHAs operate using a COCC
- While these PHAs represent only 15% of the PHA portfolio, these PHAs are generally the larger PHAs in the country, managing more than 2 million PH units and HCV vouchers
- Total COCC revenue for these PHAs is \$1.75 billion

COCC Fee Revenue



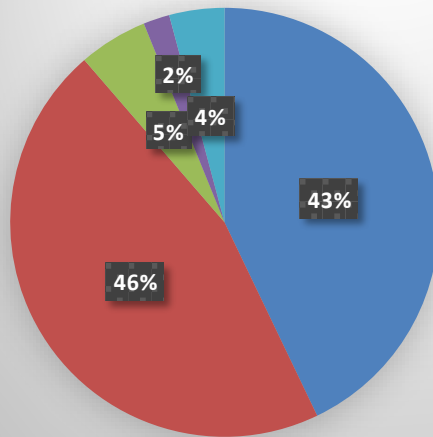
Source of Fees

Source of Management Fee



Source of Mgmt Fee	% of Total
Public Housing	58%
Capital Fund	9%
Housing Choice Vouchers	13%
Moving to Work	4%
Other HUD	4%
Other Non HUD	12%
Total, Mgmt Fee	100%

Source of Bookkeeping Fee



Source of Bookkeeping Fee	% of Total
Public Housing	43%
Housing Choice Vouchers	46%
Moving to Work	5%
Other HUD	2%
Other Non HUD	4%
Total, Bookkeeping Fee	100%

COCC: Fee Reasonableness

OIG Recommendations: HUD Agreement

- **Asset Management Fee.** OIG did not understand the purpose of the asset management fee and did not like HUD's basis for the \$10.00 PUM.
Outcome: Asset management is still permitted; HUD will examine possible methodologies for determining reasonableness of asset management fee
- **Determination of Fee Reasonableness.** HUD will document the methodology used to calculate each fee
 - HUD will re-run the fee methodology annually using the most recent data set
 - Based on the results, HUD will update and issue a new fee schedule or will inform PHAs that the current fee schedule will be continued for another year
 - At a minimum, HUD will issue a new fee schedule every 3 years

COCC: Improve HUD Monitoring on Fee Reasonableness

OIG Recommendations: HUD Agreement

- **Monitoring – Automated Controls.** HUD has taken steps to improve automated controls to ensure PHAs do not charge excessive COCC fees. Starting in April 2016, the FASS-PH system triggers an alert email / letter to inform the field and program office of potential instances when actual fees charged exceed the maximum fees for: 1) PH Asset Management Fee; 2) PH Bookkeeping fee; 3) HCV Bookkeeping Fee; and 4) HCV Management Fee
 - HUD will develop and implement automated controls to review fees charged for other fee types currently not automated
 - HUD will develop and implement procedures to require the immediate repayment of any over-charged fee amounts
- **COCC Reviews.** Annually HUD will conduct a compliance review on a sample of PHAs' COCC. The review will analyze whether the PHA has charged the correct fee amounts and if the expenses incurred by the COCC were eligible and reasonable

COCC: Uses of Fee Income

OIG Recommendations: HUD 3 Options

- **Option 1: Continuation of Current Policy**
- **Option 2: Re-federalize Section 8 and 9 Fee Revenue (2 COCCs)**
 - Section 8 and 9 fee income only can be used for the activities currently permitted under these programs
 - Non-Section 8 and 9 fee income is limited in use to the following:
 - Support any and all PHA programs (Federal, state, and local)
 - Support only activity or expenses that is allowed by state and local law/regulations/charter
 - **Impact:**
 - Negatively impact current and future development deals because COCC funds are often used as seed money or to cover initial development costs
 - Limits availability of matching funds for resident services
 - Increase accounting and system costs associated with 2 COCCs

COCC: Uses of Fee Income (cont.)

OIG Recommendations: HUD 3 Options

- **Option 3: Section 8 & 9 Activities with Expanded Uses**

- Section 8 and 9 fees can be used for the activities currently permitted under these programs, and
- Activities that provide for enhanced low-income housing in the PHA's community, and
- Other HUD-defined activities
- **Impact:**
 - Provides for improve monitoring over the uses of fees to address the OIG's concerns
 - Permit PHAs to still fund development and resident services activities
 - PHAs can continue to maintain one (1) COCC

Proposed Rule: HUD plans to issue a proposed rule in late 2019 which implements changes to asset management and the COCC as a condition to close out the OIG recommendations and to more clearly codify other provisions of the asset management model.

Impact of Agreement and New Rule

OIG Recommendation: Establish and implement procedures to re-assess the COCC fees periodically to ensure that they are reasonable

- **Impact:** If HUD finds a fee(s) unreasonable, HUD could increase or decrease the fee rate or change the calculation methodology. This change can increase or decrease funding to the COCC and to the projects or programs charged the fee

OIG Recommendation: Improve the monitoring over the fees a PHA can charge

- **Impact:** PHAs should ensure that the fees charged are fully supported and compliant with HUD standards
 - Areas of Concern:
 - Basis of unit information to support fee
 - Market studies to support front-line fees
 - Non-traditional fees and other non-fee income

Impact of Agreement and New Rule (continued)

OIG Recommendations: Revise asset management policy to re-federalize Section 8 & Section 9 fees

- **Impact of Option 1: Continuation of Current Policy**
 - HUD will likely still need to strengthen policy to eliminate COCC expenses on items that are deemed waste and abuse (e.g., alcohol, entertainment, personal security systems, vacations, etc.)
- **Impact of Option 2: Re-federalize Section 8 and 9 Fee Revenue**
 - See impact of option 1
 - COCC expense testing would be required to ensure Section 8 and 9 fee income is only used for the activities currently permitted under these programs
 - Where the PHA is administering programs, other than Section 8 and 9, cost allocation testing would be required to ensure the appropriate level of overhead costs are charged to the Section 8 & 9 COCC
 - Cost allocation plans / systems likely will need to be updated and/or another COCC established for non section 8 & 9 fees

Impact of Agreement and New Rule (continued)

OIG Recommendations: Revise asset management policy to re-federalize Section 8 & Section 9 fees

- **Impact of Option 3: Section 8 & 9 Activities with Expanded Uses**
 - See impact of option 1
 - COCC expense testing would be required to ensure that Section 8 and 9 fee income is only used for the activities currently permitted under these programs and other allowable costs
 - PHA would not be required to create another COCC for non-section 8 and 9 fees or be required to update their cost allocation plan/system

COCC Fee Reasonableness & Other Compliance Risks

PHAs Required to have a COCC

- Generally, PHAs with over 400 public housing units must establish a COCC
- PHAs with 250 or more public housing units that applied for stop loss had to establish a COCC
- Exceptions:
 - PHAs using CFP funds for central expenses are not allowed to establish a COCC and must use allocated overhead
 - For PHAs with 249 or less public housing units, the establishment of a COCC is optional

Fee Reasonableness Standards

- **Compliance Requirement**
 - HUD considers any fees that are within HUD guidance to be reasonable
 - For those PHAs using fee-for-service, reasonableness is determined by comparing the amount of fees charged to the project to the amount the HUD allows to be charged to a project
 - Fees above the guidelines that have not been approved by HUD are considered **ineligible** costs
 - With the issuance of the 2011 Compliance Supplement, auditors are required to determine if the fees charged to the projects by the COCC are reasonable

Fee Reasonableness Summary

Fees		Reasonableness	Restrictions
COCC	PH Management Fee	<ul style="list-style-type: none"> • Calculated as a PUM • Determined by PIH management fee schedule, multifamily schedule and other compelling market data • Based on the number of occupied units or approved vacancies 	<ul style="list-style-type: none"> • Management and bookkeeping fees are to be earned monthly for each <u>occupied unit or approved vacancy/special use unit</u>, as per 24 CFR §990.140 and §990.145, respectively. • PHAs will not earn a property management fee on units defined as “limited vacancies” pursuant to 24 CFR §990.150. • New units that come online during the PHA’s fiscal year begin to earn the fees in the month the unit first becomes occupied.
	PH Bookkeeping Fee	<ul style="list-style-type: none"> • \$7.50 per unit month • Based on the number of occupied units or approved vacancies 	
	PH Asset Management Fee	<ul style="list-style-type: none"> • \$10.00 per unit month • Based on the total units under ACC for a particular project 	<ul style="list-style-type: none"> • Subject to availability of excess cash from the prior year
	CFP Management Fee	<ul style="list-style-type: none"> • 10% of CFP grant 	

Fee Reasonableness Summary

Fees		Reasonableness	Restrictions
COCC	HCV Management Fee	<ul style="list-style-type: none"> • 20% of administrative fee earned, or • \$12.00 per unit month • Based on the number of leased vouchers per month 	<ul style="list-style-type: none"> • 20% of administrative fee earned is subject to any proration
	HCV Bookkeeping Fee	<ul style="list-style-type: none"> • \$7.50 per unit month • Based on the number of leased vouchers per month 	
	Fees Charged for Centralized Services	<ul style="list-style-type: none"> • Must not exceed the market rates • Each project must be charged for the actual services received and only to the extent that such amounts are reasonable • The fee charged to the project must be for the like service provided 	<ul style="list-style-type: none"> • Centrally provided front-line services must be in the best interest of the projects • The market survey establishes the upper bounds of the rate, however the COCC can charge a lower rate and/or have different rates for different projects
Allocated Overhead		Tested by comparing the total allocated overhead expense (FDS Line Item 91810) charged to a project or program, to the total fees that could be charged to a project or program under a fee-for-service method	

Special Circumstances and Other Allowed Fees

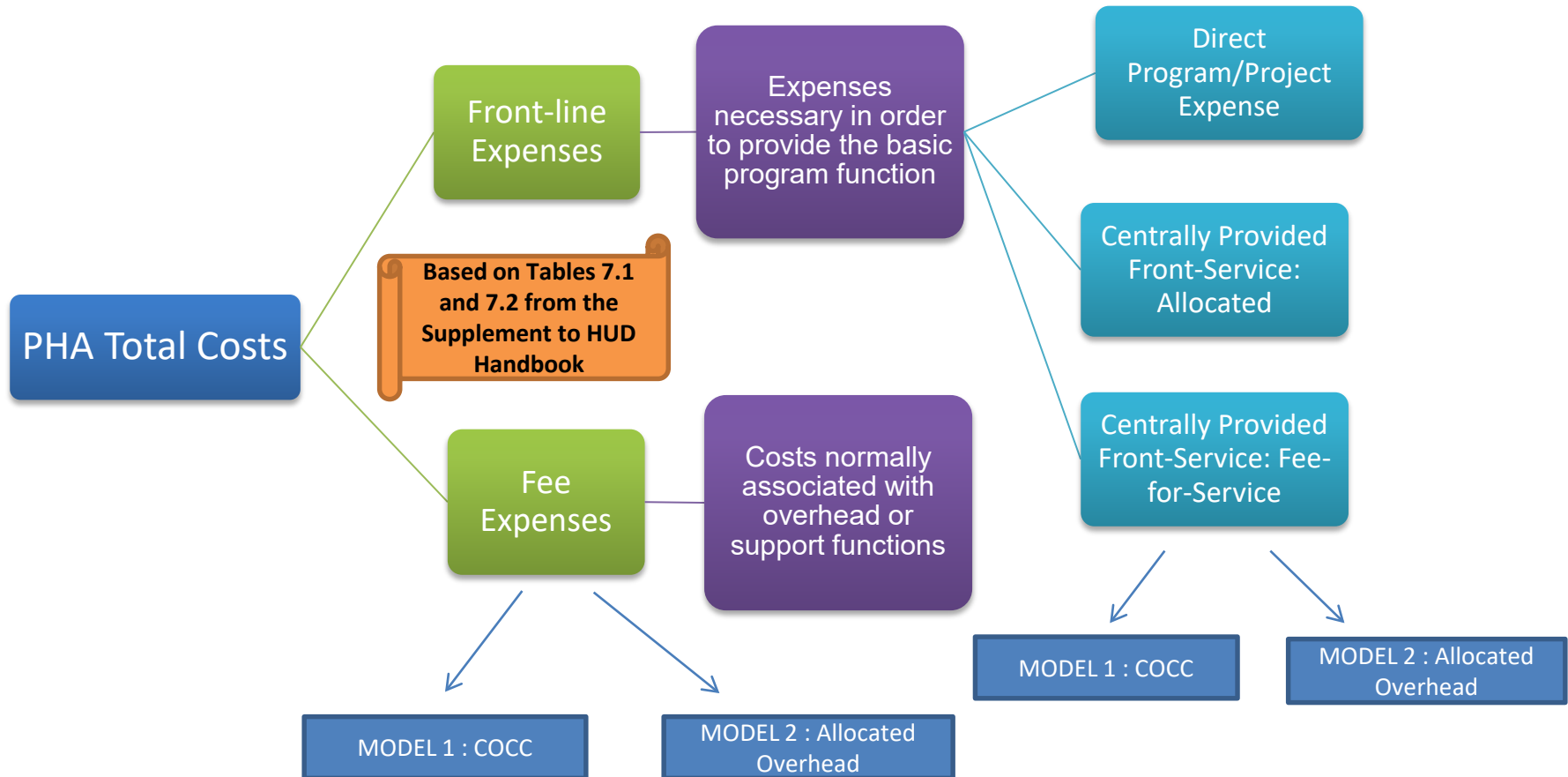
- There are special circumstances where HUD allows a fee to be charged or charged at a modified rate
 - Management Fee - Privately Managed Public Housing
 - Management Fee - Mixed-Finance Public Housing
 - Management Fees for Units Undergoing Demolition
 - Management Fees for Units Undergoing Disposition
 - PHA Administrative Fee - Development
 - Other PIH and HUD Grants

Refer to: Changes in Financial Management and Reporting for Public Housing Agencies Under the New Operating Fund Rule (24 CFR part 990) Supplement to HUD Handbook 7475.1 REV., CHG-1, Financial Management Handbook

Non-COCC Revenue

- Examples of non-COCC revenues:
 - Revenues earned by the projects or from assets owned by the projects
 - Proceeds from the disposal of project assets
 - Loans or transfer of excess cash from projects to the COCC
 - “Special” Operating Subsidy to supplement administration and management costs for projects undergoing demolition or disposition (Asset Repositioning Fee)

Step 1 - Classification of Costs Overview



Eligible Activities of the Operating Fund & Capital Fund

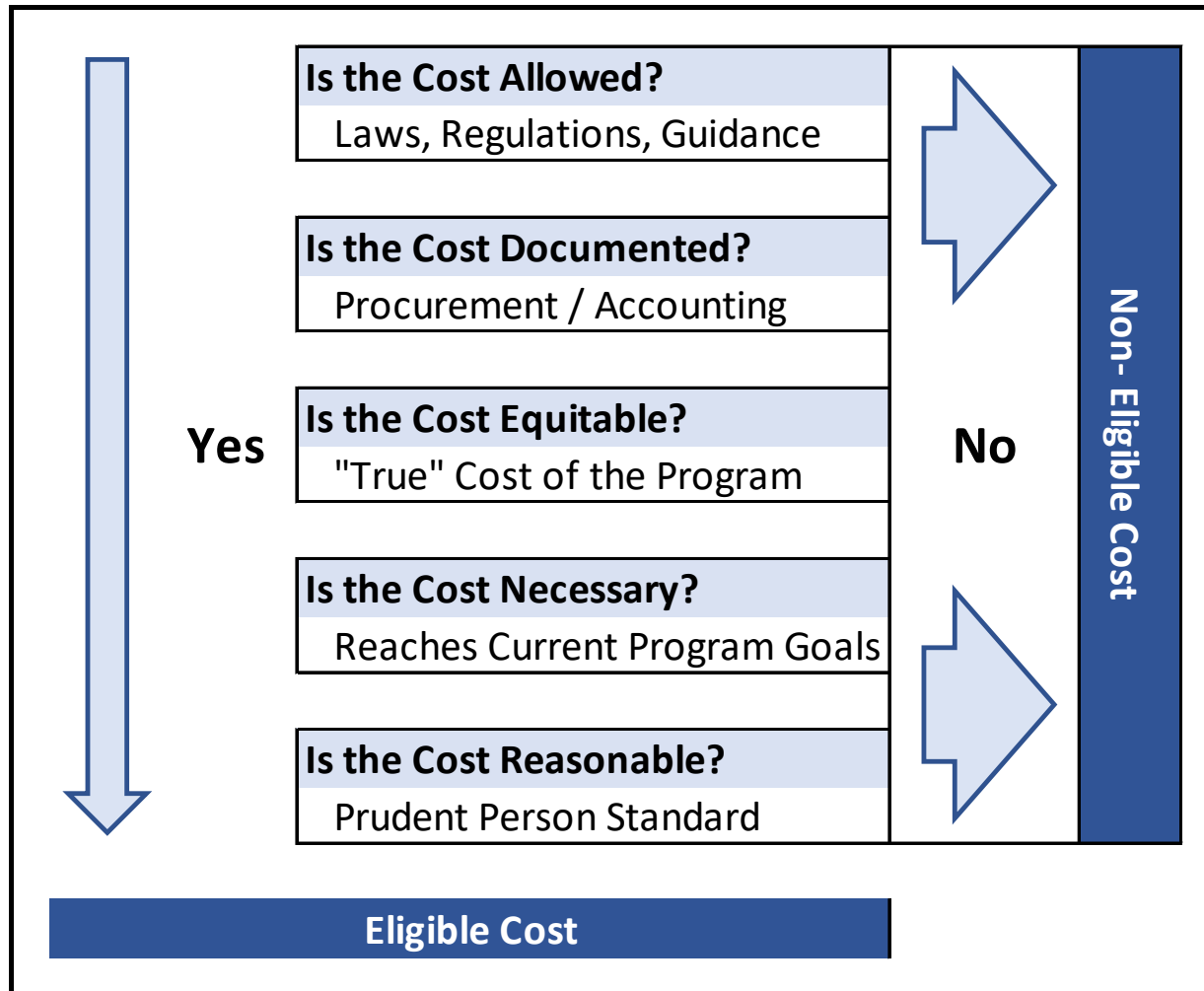
2 CFR 200 – Eligible Cost Guidelines

- Must be necessary and reasonable for efficient administration of Federal awards
- Must be allocable to Federal awards (i.e., an eligible use of the federal grant)
- Must conform to limitations set forth under other governing regulations
- Must be adequately documented
- Must be authorized or not prohibited under State or local laws
- Must be consistent with other activities of the governing unit
- Must be charged consistently between programs for similar expenditures
- Cost must be reasonable such that the cost does not exceed that which would be incurred by a prudent person
 - Consideration will be given to the following factors:
 - Cost is ordinary and necessary;
 - Sound business practices, arms length transaction; and
 - Whether the individuals involved acted with prudence in their responsibility to the governmental unit

2 CFR 200 – Specific Ineligible Costs

- Automobiles
 - That portion of automobile costs furnished by the PHA that relates to personal use by employees (including transportation to and from work) is unallowable
- Alcoholic Beverages
 - Costs of alcoholic beverages are unallowable
- Entertainment Costs
 - Costs of entertainment, including amusement, diversion, and social activities and any associated costs are unallowable
- Fines, penalties, damages and other settlements
 - Costs resulting from PHA violations of, alleged violations of, or failure to comply with, Federal, state, local laws and regulations are unallowable
- Goods or services for personal use
 - Costs of goods or services for personal use of the PHA's employees are unallowable
- Interest
 - Interest costs for interest on borrowed capital is unallowable
 - Interest costs for the acquisition or replacement of capital assets is allowable

Eligible Cost Summary



Eligible Costs of Operating Subsidy

- Operating subsidy can be used to cover costs associated with the *operations* of the ACC projects
 - *Operations* is defined as any or all undertakings appropriate for the management, operation, services, maintenance, security (including the cost of security personnel), or financing in connection with a low-income housing project
- The eligible use authority for operating subsidy extends to operating reserve balances accumulated through the operation of public housing (general fund), including all program income

Typical Operating Budget Expense Line Description
Administrative Expenses:
Administrative Salaries
Auditing Fees
Management Fee
Bookkeeping Fee
Asset Management Fee
Employee Benefits-Admin
Office Expense
Legal Expense
Staff Training
Travel
Other Sundry
Utilities:
Water & Sewer
Electricity
Gas
Ordinary Maintenance and Operatio
Labor
Materials
Contract Costs
Employee Benefits-Maintenance
Protective Services:
Contract Costs
General Expenses:
Property Insurance
Liability Insurance
Workers' Comp Insurance
Other Insurance
Payments in Lieu of Taxes

Operating Funds for Capital Items

- A PHA should use Operating funds for non-expendable capital expenditures to support operations of the program. For example, a PHA may use Operating funds to purchase a:
 - Snow blower
 - Maintenance truck
 - Computers
 - Office furniture

Emergencies and Insurance Proceeds

- Operating funds may be used for unforeseeable and non-preventable emergencies that include damage to the physical structure of a PHA's housing stock (i.e., natural disaster, fire, etc.)
 - The Operating Fund must be reimbursed for any expenses that were initially covered with Operating Fund resources up to the amount received for any associated warranty, insurance, or disaster proceed
- Unless there is written HUD approval to the contrary, to the extent that insurance proceeds permit, the PHA must promptly restore, reconstruct and /or repair any damaged or destroyed property
- PHAs need to keep a separate accounting in order to show costs of repair, funds used for the repairs, the use of insurance proceeds, etc.

Resident (Tenant) Participation Funding

- **Funding for Resident Participation Activities**
 - Operating Fund Calculation of Operating Subsidy - Funding for Resident Participation Activities (HUD Form 52723: Part A – Line 11)
 - \$25 per leased unit (subject to proration)
 - \$15 to Resident Council
 - \$10 to PHA
 - If no resident council, PHA will determine how the funds will be used for resident activities
 - Funds are to be supported by budget and policies and procedures

Other Sources of Information:

Guidance on the Use of Tenant Participation Funds (PIH Notice 2013-21 (HA))

Tenant Participation and Tenant Opportunities in Public Housing (24 CFR Part 964)

Resident (Tenant) Participation Funding

- **Eligible Activities**

- Outreach Efforts that Support Active Interaction between PHA/Residents
- Resident Surveys
- Resident Commissioner Training
- Resident Council Elections and Organizing Activities
- Wide Range of Self-sufficiency and Capacity Building Activities
 - Training programs on health, parentings skills, child care, before/after school programs, financial literacy, credit counseling, tutorial services
- Reasonable refreshment and light snacks directly related to resident meeting

- **Ineligible Activities**

- Purchase of alcohol
- Entertainment, such as trips to theme parks, movies, county fairs, sports events, including all related costs (tickets, meals transportation, etc.)
- Social activities (parties, bowling nights, etc.), including all related costs

Eligible Costs of the Capital Fund Program

Capital Fund Program Reference Table		
Eligible CFP Activity	Capital Fund Regulatory Citation	CFP Guidebook Section Reference
Modernization	24 CFR 905.200 (b) (1)	2.4
Development	24 CFR 905.200 (b) (2)	2.2
Financing	24 CFR 905.200 (b) (3)	2.3
Vacancy Reduction	24 CFR 905.200 (b) (4)	2.4.16
Nonroutine Maintenance	24 CFR 905.200 (b) (5)	2.4.14
Planned Code Compliance	24 CFR 905.200 (b) (6)	2.4.15
Management Improvements	24 CFR 905.200 (b) (7)	2.5.2
Economic Self-Sufficiency	24 CFR 905.200 (b) (8)	2.5.1
Demolition and Reconfiguration	24 CFR 905.200 (b) (9)	2.4.10
Resident Relocation and Mobility Counseling	24 CFR 905.200 (b) (10)	2.5.3
Security and Safety	24 CFR 905.200 (b) (11)	2.6
Homeownership	24 CFR 905.200 (b) (12)	2.7
Capital Fund Related Legal Costs	24 CFR 905.200 (b) (13)	2.7
Energy Efficiency	24 CFR 905.200 (b) (14)	2.4.13
Administrative Costs	24 CFR 905.200 (b) (15)	2.7
Audit	24 CFR 905.200 (b) (16)	2.7
Capital Fund Management Fee	24 CFR 905.200 (b) (17)	2.7
Emergency Activities	24 CFR 905.200 (b) (18)	2.4.12
Purchasing or Leasing of Vehicles	n/a	2.4.11

General Ineligible Activities of the CFP

- Ineligible activities include:
 - Any cost not related to public housing
 - Any costs not in the 5-Year Action Plan (with exception of an emergency or disaster)
 - Not modest design
 - Not eligible based on OMB regulation
 - Public housing operations except through BLI 1406 (transfer to operation)
 - Any costs that benefits other programs, such as the HCV program
 - Supportive services
 - Duplicate funding (i.e., a cost that was funded by another source)
 - As determined by HUD
- HUD approval of CFP plans, the spreading of budget in eLOCCS, and the disbursement of CFP funds to the PHA does not authorize / allow for the use of such funds on ineligible activity
- Depending on what transactions have occurred, PHAs may need to:
 - Repay the funds back to HUD from an appropriate source
 - De-obligate CFP funds
 - Request a Budget revision

Purchase / Lease of Vehicles

- Eligible costs of CFP if the vehicle is needed on a full-time basis to administer / implement the ***physical and management improvements*** set forth in the CFP budget
 - Maintenance costs are considered operating costs
- If the vehicle is needed on less than a full-time basis to carry out the Capital Fund Program, the portion of the cost that is not associated with the administration or implementation of physical and management improvement, is an ineligible cost of the Capital Fund Program

Security and Safety

- Capital Funds can no longer be used to fund the on-going salaries and benefits of security personnel (i.e., security guards, police patrols, etc.). These expense should be paid from operations
- Cost of security items (including installation) have always been a capital fund eligible activity (either simply through BLI non-dwelling equipment or possibly as a management improvement). Includes items such as:
 - Security cameras, security lights, and surveillance equipment
 - Redesign of entrance, common areas for defensible space
 - Fencing and other perimeter security
 - Conversion of dwelling space for use by project security
 - Stabilization of buildings through consolidation of occupied units and securing vacant units/floors

Management Improvements

- Management Improvements – Defined specifically as activities that are Project-specific or PH-wide improvement that are needed to:
 - Upgrade or improve the operation or management of the program
 - Improvement to the PHA's management, financial and accounting control systems
 - Promote energy conservation
 - Sustain physical improvements
 - Correct management deficiencies identified by audit, HUD or the PHA
 - Staff Training in operations and procedures, including waitlist management, leasing, etc.
 - PHA must be able to demonstrate, upon request by HUD, the linkage between the management improvement and the correction of an identified management deficiency
- Gradual reduction on use of CFP for Management Improvements: 2013 Grant is capped at 20% and is reduced by 2% each year to 2018 Grant: capped at 10%

Small PHAs Operating Funds for Capital Activity Funds

- **Operating Funds for Capital Expenses** – PHAs with less than 250 public housing units (small PHAs) that are not troubled can use their operating funds for capital activity
 - Capital items to be paid for through operating funds must be included in an approved CFP 5-Year Action Plan and budget submitted to HUD
 - Operating Funds include operating subsidy, tenant rents and all other PH program income (i.e., operating reserves)

Source: PIH Notice 2016-18 (HA)

Small PHAs: Transfer of Capital Funds to Operations (BLI 1406)

- **Capital Funds to Operations** – PHAs with less than 250 public housing units that are not troubled can transfer up to 100% of their CFP to operations (full flexibility) if the PHA does not have debt service payments, significant capital needs, or emergency needs
 - PHA must have written determinations and provide records upon request that there are no debt service payments, significant capital needs, or emergency needs that must be met
 - Determination of significant capital needs may be based on:
 - Field Office Review
 - Physical Assessment Sub-system Score
 - PHA assessment of capital needs (i.e., capital needs assessment report)
 - Small PHAs ineligible to exercise full flexibility are subject to a 20% limitation on transfers of Capital Funds to operations

Source: PIH Notice 2016-18 (HA)

Large PHAs: Operating Subsidy for Capital Activity Funds

- **Operating Subsidy for Capital Fund Eligible Activities** – PHAs with 250 or more public housing units (large PHAs) can use up to 20% of their 2018 operating subsidy and thereafter, for eligible activities of the Capital Fund Programs
 - These funds are still considered operating subsidy, just with expanded uses
 - Exception: Operating subsidy used for Capital fund activities cannot be used to pay additional CFP management fee (BLI 1410) or as a transfer to another project(s) to support operations (BLI 1406)

Source: PIH Notice 2018-03(HA)

Large PHAs: Operating Subsidy for Capital Activity Funds (continued)

- Operating subsidy to be used for this purpose may not be drawn down until actual related capital improvements are incurred and invoices are ready to be paid
- PHA accounting records need to support that
 - Only operating subsidy (i.e., no program income) was used for the CFP activity
 - No more than 20% of that year's Operating Subsidy was used
 - The funds were spend in accordance with the PHA's approved EPIC budget as provided to HUD

Large PHAs: Operating Subsidy for Capital Activity Funds (continued)

- Use of Operating Subsidy for CFP activities is limited to 20% of the PHA's total annual obligated operating subsidy and the amount cannot exceed the amount of operating subsidy obligated at the project level
- Example: PHA is obligated \$400,000 of operating subsidy. Maximum amount of operating subsidy to be used for capital activities is \$80,000 (20% of \$400,000)

Allowable Budgets of CFP Activity	Project A	Project B	Project C	PHA Total
Total Obligated Operating Subsidy	\$200,000	\$150,000	\$50,000	\$400,000
Example 1	\$40,000	\$30,000	\$10,000	\$80,000
Example 3	\$80,000	\$0	\$0	\$80,000
Example 3	\$0	\$40,000	\$40,000	\$80,000
Example 4	\$30,000	\$10,000	\$20,000	\$60,000
Example 5	\$0	\$20,000	\$50,000	\$70,000



Impact of New Laws

Impact of New Laws

- In the last few years, a number of laws have been enacted which will affect what is permissible under program rules
- When a law is enacted, HUD's legal office determines if the law is
 - Self-implementing
 - Implemented through notice
 - Implemented through regulation
- This means the implementation of the different portions of the law will occur over a time period which will likely stretch years
- Most of the new laws do not affect eligible use of funding or have direct financial impact but address the management and operations of the programs
- PHAs and auditors need to be up-to-date on when the different provision of law are to be implemented

Impact of New Laws (continued)

- From a PHA's perspective, PHAs will incorporate the new laws into their policy and procedures at the time the provision of law is allowed to be implemented
 - Early Implementation or late implementation may result in non-compliance
- From a Auditor's perspective, the auditor will need to:
 - Ensure that the PHA implemented the provision of law when allowed and implemented the provision correctly
 - Make sure their tests of compliance are modified to include the new provisions of law and are in accordance with the PHA's policy
 - Areas of compliance testing that will be affected are:
 - Family eligibility
 - Calculation of income and assets
 - Calculation of TTP and HAP
 - Frequency of reexamination
 - HQS inspection standards, timeframes, and enforcement actions



HOTMA Provisions: Update

HOTMA - Background

- The Housing Opportunities through Modernization Act (HOTMA) was signed into law in July 2016
- HOTMA amended the U.S. Housing Act and other housing laws covering multiple HUD programs and Agriculture's single family loan program
- Five provisions became effective when HOTMA was signed. All other provisions require HUD action (i.e., notice or regulation)
 - **10/24/2016:** HUD published initial implementing guidance in Federal Register which provides an overview of HOTMA (81 FR 73030)
 - **1/18/2017:** Implementation notice was published covering various provisions related to HCV and PBV. The provisions implemented by this Notice had an effective date of 4/18/2017 (82 FR 5458)
 - **7/14/2017:** Technical corrections was published to the 1/18/2017 Notice (82 FR 32461)
 - Subsequent guidance (i.e., notices) have been provided on certain provisions. Remaining guidance is to be issued via regulation in 2019 / 2020

Status of Implementation - HOTMA

HOTMA Provisions	HCV	PH	Implementation Status
Sec. 101 Inspections	√		<ul style="list-style-type: none"> Implementation Notice issued 1/18/2017 and PIH Notice 2017-20
Sec. 102 Income Reviews	√	√	<ul style="list-style-type: none"> Section 102(d) permitting payment standard up to 120% of FMR for reasonable accommodation without HUD approval is immediately effective Other provisions to be issued via regulation in June 2019.
Sec. 103 Limitation: Over-Income Families		√	<ul style="list-style-type: none"> Initial guidance was issued on 7/16/2018 in Federal Register Notice and supplemental guidance was provided in PIH Notice 2019-11. Regulation to be issued on how PHAs are to set rent policy
Sec. 104 Limitation: Assets	√	√	Regulation to be issued in June 2019
Sec. 105 Units Owned by PHA		√	Implementation Notice issued 1/18/2017
Sec. 106 Project-Based Assistance	√		<ul style="list-style-type: none"> Most provisions were implemented in the Notice issued 1/18/2017. Other provisions to be issued via regulation in 10/2019.
Sec. 107 Establishment of FMR	√		Immediately Effective
Sec. 108 Collection of Utility Data	√		Requires implementing regulation
Sec. 109 PH Capital & Operating Funds Flexibility & Reserves		√	Regulation to be issued in October 2019
Sec. 110 FUP & Children Aging Out of Foster Care	√		Immediately Effective
Sec. 111 PH Heating Guidelines		√	PIH Notice 2018-19
Sec. 112 Use of Vouchers for Manufactured Housing	√		Implementation Notice issued 1/18/2017
Sec. 113 Preference for US Citizens or Nationals	√	√	Immediately Effective
Sec. 114 Exception to Resident Board Member Requirements		√	Immediately Effective

Section 101. Inspections

HUD Guidance: 1) Implementation Notice (82 FR 5458, 1/18/2017 and 82 FR 32461, 7/14/2017) and 2) PIH Notice 2017-20 issued October 27, 2017). HQS Enforcement requires regulation.

- Two major provisions related to **initial HQS inspections:**
 - Allows PHAs to make HAP Payments on a unit for up to 30 days if an initial inspection reveals non-life threatening defects
 - Allows a PHA to authorize occupancy of a unit before the PHA's HQS inspection if the property has met the requirements of an alternative inspection in the previous 24 months
 - Initial HQS inspection is still required within 15 days of Request for Tenancy Approval (RFTA)

- Two major provisions related to **HQS enforcement:**
 - Make timeframes for correcting deficiencies statutory (24 hours for life-threatening and 30 days for other unless PHA determines otherwise)
 - For regular and interim inspections, lead hazard reduction must follow requirements in 24 CFR part 35
 - Provides families with 90 days to relocate to a new unit if an owner fails to correct HQS deficiencies. Allows PHAs to use up to 2 months of any withheld or abated HAP for costs associated with relocation of these families

Section 101. Inspections (cont.)

- PIH Notice 2017-20 provides guidance on **initial HQS Inspections**:
 - HUD defines what constitutes non-life threatening (NLT) and life-threatening (LT) conditions
 - Provides examples of eligible alternative inspection methods (e.g., HOME, LIHTC, or inspections performed by HUD) – Same as current regulation, 24 CFR 982.406
 - PHAs implementing these provisions must amend their HCV Administrative Plan to:
 - Adopt HUD’s definition of NLT and LT conditions and explain how the provision will be applied (e.g., PHA can apply the NLT to all or portion of the initial inspections)
 - Identify the specific alternative inspection method and how applied
 - Inform owners and families of the new policy and procedures
 - Notify HUD 30 days before the policy becomes effective
 - PHAs that have adopted one or both provision will receive full points on SEMAP Indicator 11, Pre-contract HQS inspection (5 of 145 available points)

Section 102. Income Reviews

HUD Guidance: HUD regulation not yet issued

- **Income Reviews**

- Interim income reviews required only when a family's income increases or decreases by 10% or more of annual adjusted income

- **Calculation of Income**

- At annual reviews, PHAs must use the income from the preceding year and take into account any increases or decreases greater than 10%
 - PHAs may use other means-tested Federal public housing assistance programs for income determinations (e.g., TANF, Medicaid, or SNAP)
- Increases the standard deduction for elderly and disabled households to \$525 and requires HUD to apply an annual inflation factor
- Increases the threshold by which medical expenses must exceed annual income to 10% before such amounts may be deducted
- Eliminates mandatory earned income disregard in the PH program
- Exclude Educational Savings Accounts from income calculation

Section 102(d). PHAs can establish a payment standard up to 120 percent of the FMR as a reasonable accommodation for a person with a disability without HUD approval (**was effective immediately**)

Section 103. Limitation: Over-Income Families

HUD Guidance: HUD issued initial guidance in Federal Register Notice on 7/16/2018 (83 FR 35490) and provided supplemental guidance in PIH Notice 2019-11. Proposed rule to be issued for how PHAs are to set rent policy after two-year grace period

- Sets maximum amount of annual adjusted income for continued occupancy in PH at 120% of area median income (AMI)
 - A family is only subject to this limitation if their annual adjusted income meets or exceeds the maximum amount for two consecutive years
- For a family that meets this threshold for two consecutive years, the PHA has the option to terminate the family's tenancy within 6 months or to allow them to remain in the unit at a higher rent amount (at the HUD-determined FMR for the unit or the operating and capital subsidies provided for the unit, whichever is greater)
- PIH Notice 2019-11.
 - Requires a PHA to complete the process for amending their ACOP (over-income limit; when the two-year timeframe starts; and notification requirements) within 6 months (March 24, 2019) after the effective date published in the 2018 FR Notice (September 24, 2018)

Section 104. Limitation - Assets

HUD Guidance: HUD regulation to be issued June 2019

- **Income Eligibility - Assets**

- A family with net assets above \$100,000 cannot receive assistance under PH or HCV program. Exceptions:
 - Does not apply to victims of domestic violence, families offering real property for sale, or persons receiving homeownership assistance or manufactured housing rental assistance
 - PHAs have the option on whether to enforce the asset limitation at re-certification for PH residents
- Permits self-certification of net assets of less than \$50,000

- **Access to Financial Records**

- Starting in FY 2018, PHAs must require all applicants and participants to provide authorization to the PHA to access financial records from financial institutions for the purposes of income eligibility
- Applicants and participants refusing to provide access to records may be determined by the PHA as ineligible for assistance

Section 106. Project-Based Assistance

HUD Guidance: Implementation Notice (82 FR 5458, 1/18/2017) and Technical Corrections (82 FR 32461, 7/14/2017). To consolidate guidance on the PBV program, the Notice also incorporates past PBV guidance, some of which is unchanged by HOTMA

- PBV HCV limit is changed from 20% of funding to 20% of units
 - Allows additional 10% of PBVs for homeless families, veterans, supportive housing for persons with disabilities/elderly persons, or in areas where vouchers are difficult to use
- New initial and extension PBV contract term is up to 20 years
- PHAs can attach PBV assistance to PHA-owned or controlled structures without competition
- VASH and FUP vouchers can be project-based
- PHAs must submit to HUD field office the total number of units authorized, committed, and proposed for project-based assistance
- PBV provisions that *requires rulemaking*:
 - Permits owners to use site-based waiting lists
 - Permits rent adjustments using operating cost factor
 - Modify environmental review requirements for existing housing

Section 106. Project-Based Assistance (cont.)

- Units Not Subject to Program Limitations (Program Cap) or Income-Mixing Requirements (Project Cap)
 - Units previously subject to certain federal rent restrictions or receiving another type of long-term housing subsidy provided by HUD do not count toward the PBV program limitation and are exempt from the income-mixing requirement (25 percent or 25 units in a project, whichever is greater) when PBV assistance is attached

Unit Received Following HUD Assistance	Unit subject to Rent Restriction
<ul style="list-style-type: none"> • PH Capital or Operating Funds • Section 8, Mod-Rehab, SRO • Section 202 Elderly • Section 811 Disabled • Rent Supplement Program • Rental Assistance Program • Flexible Subsidy Program 	<ul style="list-style-type: none"> • Section 236 • Section 221(d)(3) or d(4) BMR • Section 202 Elderly • Section 811 Disabled • Flexible Subsidy Program

- The unit must meet both of the following conditions to be exempt:
 - Units must have been placed under HAP contract on or after April 18, 2017
 - In the 5 years, the PHA issued the RFP under which the unit was selected, the unit received certain HUD assistance or was subject to a rent restriction

Section 109. PH Capital & Operating Funds – Flexibility & Replacement Reserves

HUD Guidance: Proposed Rule to be issued October 2019

- Allows PHAs to transfer up to 20% of Operating Fund appropriated for fiscal year 2016 and later years for Capital Fund activities
- PHAs may deposit funds from the PHA's Capital Fund into a replacement reserve up to the amount needed to meet capital needs
 - In first establishing the replacement reserve, HUD may permit a PHA to transfer more than 20% of its Operating Funds into the replacement reserve
 - HUD may establish a maximum replacement reserve level that is below the amount determined by the PHA to meet its capital needs
 - HUD will establish PHA accounting and reporting requirements for replacement reserve funds
- Link to HUD website for HOTMA Resources and updates:
https://www.hud.gov/program_offices/public_indian_housing/hotmaresources



Economic Growth Act Update

Economic Growth Act - Background

- The Economic Growth Regulatory Relief, and Consumer Protection Act (Economic Growth Act) was signed into law on May 24, 2018
- Section 306 made changes to the FSS program
- Section 209 added Section 38 (Small Public Housing Agencies) to the US Housing Act of 1937 and contains several provisions that applies to small PHAs (administer 550 or fewer combined PH units and vouchers) and predominantly operates in a rural area
 - Provides for a different assessment, separate from PHAS and SEMAP
 - Provides streamlined environmental review procedures for small PHAs
 - Requires HUD to develop new information system for public housing consortia to “accommodate full consolidated reporting”
 - Requires HUD to make shared waiting list software available for voluntary use by PHAs and multifamily owners
 - Allows a small rural PHA to be paid for utility and/or waste management costs based on a frozen rolling base for up to 20 years

Economic Growth Act – Background (cont.)

- Certain statutory provisions became effective 60 days after enactment (July 23, 2018) but these provisions require rulemaking or guidance prior to implementation
 - HUD issued a Federal Register Notice on February 14, 2019 seeking comments on implementation of several provisions (84 FR 4097)
 - Comments were due April 15, 2019

Small PHA Rural Assessment

HUD Guidance: Proposed Rule to be issued TBD

- Provides a different assessment based on the Physical Condition of a PHA's public housing projects and vouchers once every 3 years
- Applies to small and predominantly rural PHAs
 - **“Small” is defined as a PHA that administer 550 or fewer combined PH units and vouchers, including Project-Based Vouchers**
 - Based on number of units and vouchers available or leased?
 - **Definition of “rural” is determined by OMB, Census Bureau, and Agriculture’s Economic Research Services**
 - How often should HUD re-assess the rural nature of each PHA?
 - **Definition of “predominantly rural”. HUD proposed 3 options:**
 - The PHA’s physical address is in a rural area (PHA-based)
 - More than 50% of the buildings occupied by HCV and PH residents are in rural areas (building-based)
 - More than 50% of the tenants served live in rural areas (household-based)

Small PHA Rural Assessment: General Approach

- PHAs that are assessed under the small rural PHA assessment will not be assessed under PHAS or SEMAP
- For small rural PHAs that operate Public Housing, the PHA will be assessed on the physical condition of the PHA's public housing units once every 3 years
- For small rural PHAs that operate HCV, the PHA will be assessed on their compliance with the physical condition requirements for HCV units once every 3 years
- A combined small rural PHA, will receive 2 separate assessments
 - Physical condition of the PHA's public housing units
 - PHA's compliance with physical condition requirements for HCV units

Small PHA Rural Assessment: Public Housing

- **Frequency.** For small rural PHAs that operate the PH program, HUD or its contractors will assess the physical condition of the PHA's public housing units once every 3 years
- **Focus of Inspection.** *Is the focus of inspection based on projects or units?* (Section 209 refers to "projects")
- **Inspection Standard.** *What inspection standard should be used?* Section 209(c)(b) requires that the same standard used for the inspection of HCV units also be used for public housing units
- **Troubled Physical Condition Designation.** A small rural PHA with a physical condition score of less than XX points on a 100-point scale, would be designated as Troubled, would be inspected annually, Corrective Action plan required
 - A PHA that receives a Physical Condition score of XX points or greater, is designated as Non-Troubled and would be inspected again in 3 years

Small PHA Rural Assessment: HCV

- **Frequency.** For small rural PHAs that operate the HCV program, the PHA will be assessed on whether they comply with the physical inspection requirement(s) for HCV units. HUD will assess compliance once every 3 years
- **Focus of Inspection.** Section 209 states that the PHA shall make periodic physical inspections of each assisted dwelling (i.e., leased) unit not less frequently than once every 3 years
 - How does HUD calculate given that residents will move in and out over the 3-year period?
- **Inspection Standard.** *What inspection standard should be used?* HQS or its successor?
 - Should HUD still permit alternative inspection methods?

Small PHA Rural Assessment: HCV (cont.)

- **Assessment of Compliance.** How should HUD assess PHA's compliance? Section 209 refers specifically to periodic inspections. Should HUD also assess a PHA's compliance based on other indicators such as:
 - Is the PHA using and adhering to the proper inspection protocol
 - Whether the PHA performed an initial inspection
 - Housing deficiencies are corrected within the required time period
 - How would HUD measure?
- **Troubled Physical Condition Designation.**
 - A PHA “pass” if they pass all assessment indicators? Designated non-Troubled and assessed again in 3 years
 - A PHA “fails” if the PHA does not pass XX of XX assessment indicators? Designated Troubled, is assessed annually, and Corrective Action Plan required

Small PHA Rural Assessment: Impact on PBV

- **Triennial Inspection and Random Sample.** The PBV regulation permits PHAs to inspect a random sample of PBV units, consisting of at least 20 percent of the contract units in each building. If more than 20 percent of the sample contract units fail the initial inspection, the PHA must re-inspect 100 percent of the contract units in the building
 - How does this provision align with the Section 209 requirement that seems to require that the PHA inspect all HCV dwelling units within a 3-year period?
- **Alternative Inspections.** Will HUD continue to permit alternative inspection methods to be used for PBV units?
- **Mixed-Finance Properties.** Will HUD continue to permit random sample inspections for mixed finance properties with PBV?

Small PHA Rural Assessment: Other Considerations

- **Alignment with 3-2-1 and Small PHA Deregulation Rule.**
 - How should HUD consider implementing the small Rural PHA assessment for PHAs that are subject to Small PHA Deregulation rule for PHAS and/or SEMAP?
 - For Public Housing, how should HUD implement the 3-2-1 requirement for Physical Condition?
- **Transition to PHAS and/or SEMAP.** If a small rural PHA changes size and/or rural designation, how should HUD transition the PHA back to PHAS or SEMAP?

Energy Conservation: Frozen Rolling Base for Small PHAs

HUD Guidance: Proposed Rule to be issued TBD

- Allows small PHAs to elect to be paid through the Operating Fund for utility and waste management costs for a period of not more than 20 years based on its average annual consumption during the preceding 3-year period
- HUD seeks information from PHAs on heating degree data to account for temperature variations and wants methods to track and report expenditure of operating funds for capital purposes for small PHAs with over 250 units

Changes to Family Self-Sufficiency Program

HUD Guidance: Proposed Rule to be issued August 2019

- Economic Growth Act permanently reauthorizes the FSS program
- Combines the FSS programs for HCV and Public Housing (which are currently run separately)
- Expands eligibility to include families in privately owned properties subsidized with HUD project-based rental assistance
- Provisions related to FSS Escrow
 - Allows income to be placed in escrow where family earned income is between 50% and 80% area median income (AMI). Prior to the Act, an FSS family's increases in earned income during their participation in FSS could not be considered as income or a resource for other benefits or benefits payable to the family, unless the family income equaled or exceeded 80 percent of AMI
 - Forfeited Escrow. Requires that forfeited escrow must be used for the benefit of FSS participants in good standing. HUD is to provide a list of eligible and in-eligible uses of forfeited escrow funds



FASS-PH System

FASS-PH System Issue – “Partially Entered”

- FASS-PH code was updated in May that introduced an error resulting in projects that have been previously “validated” to revert back to a “Partially Entered” status
- The result of this problem is that a PHA, that is reporting public housing may not be able to submit its FDS to REAC (i.e., program reporting seems to be unaffected by this issue)
 - The larger the PHA, the likelier the PHA will encounter the problem in submitting the FDS data
- What exactly is causing the problem is still under analysis and therefore a system fix is currently unavailable
- FASS-PH has been authorized to issue new code under an emergency release to fix the problem. Anticipated time frame is late June to early July

FASS-PH System Issue - “Partially Entered”

- PHAs should continue to try and submit as code may be released that fixes the problem ahead of schedule
- For smaller PHAs, a work-around has been developed that seems to work consistently
- For larger PHAs, you can try the work-around but you still may not be able to submit
- For PHAs that are unable to submit, you should contact you analyst and capture a screen shot or two (just in case)
 - To inform them of the problem
 - To see if any other work- arounds are available

FASS-PH System Issue - “Partially Entered”

- Work-around
 - Step 1 – Make sure all non-projects are validated (i.e., programs, COCC, etc.)
 - Step 2 – Ensure all the projects are validated by clearing and addressing errors. The validated projects’ status may revert back to “Partially Entered” (do not worry about them at this time)
 - Step 3 – Once the submission is ready to be submitted, revalidate all of the projects that are in a “Partially Entered” status and run the submission completeness check
 - The second validation should go very quickly since the projects already have been validated once
 - If possible, schedule this work at an off-peak time

FASS-PH System Issue – Interest Income

- Some PHA's are not able to access the details link in FDs line 72000 – Investment Income – Restricted in the HCV program

71500	Other Revenue	\$	-
71600	Gain or Loss on Sale of Capital Assets	\$	-
72000	Investment Income - Restricted	\$	[Details]
70000	Total Revenue:	\$	-
	Expenses		
	Administrative:		

- PHA will receive the following message:

System Response Message	
Please use your Browser Back button to return to the previous screen.	
An Unknown error occurred in the system. Please contact system Administrator for help	

- Workaround – Use FDS line 71100 – Investment Income – Unrestricted in the HCV program

New System Functionality

- New system functionality is to be released near the end of 2019 or beginning of 2020
- System functionality will remove the system generated Agreed-upon Procedure report
- Instead, the system will prompt and require the auditor to attach their own Agreed-upon Procedure report as a word or pdf document
- Understanding that many audited submissions are completed near the deadline, FASS-PH will communicate the change ahead of the release schedule and try to release the code at a time not near a reporting deadline (i.e., around the end of a quarter)

The screenshot displays the FASS-PH system interface. At the top, there is a navigation bar with tabs for FDS, DCF, Notes and Findings, Auditor Procedures (highlighted in orange), Submit, Edit Flags, Reports, and Logout. Below the navigation bar, there is a section titled "PHA Information" with a table containing the following data:

PHA Information	
PHA Code	CA999
PHA Name	Hometown Housing Authority
Fiscal Year End Date:	03/31/2009
Submission Type:	Audited/A-133

Below the PHA Information section, there is a section titled "Audited Non A-133 Non Component Unit(Same Auditor)" with a sub-heading "Independent Accountant's Report on Applying Agreed-Upon Procedure". The report text is as follows:

We have performed the procedure described in the second paragraph of this report, which was agreed to by **Hometown Housing Authority** (the Housing Authority) and the U.S. Department of Housing and Urban Development, Real Estate Assessment Center (REAC), solely to assist them in determining whether the electronic submission of certain information agrees with related hard copy documents. The Housing Authority is responsible for the accuracy and completeness of the electronic submission. This agreed-upon procedure engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of the procedure is solely the responsibility of those parties specified in this report. Consequently, we make no representation regarding the sufficiency of the procedure described below either for the purpose for which this report has been requested or for any other purpose.

We compared the electronic submission of the items listed in the "UFRS Rule Information" column with the corresponding printed documents listed in the "Hard Copy Documents" column. The results of the performance of our agreed-upon procedure indicate agreement or non-agreement of electronically submitted information and hard copy documents as shown in the chart below.

We were engaged to perform an audit of the financial statements of the Housing Authority as of and for the year ended **03/31/2008**, and have issued our report thereon dated **05/23/2008**. The information in the "Hard Copy Documents" column was included within the scope, or was a by-product, of that audit. Further, our opinion on the fair presentation of the Housing Authority's Financial Data Schedule dated **06/24/2008**, was expressed in relation to the basic financial statements of the Housing Authority taken as a whole.

A copy of the financial statement package and the FDS, which includes the auditor's report, is available in its entirety from the Housing Authority. We have not performed any additional auditing procedures since the date of the aforementioned audit report. Further, we take no responsibility for the security of the information transmitted electronically to the U.S. Department of Housing and Urban Development, REAC.

This report is intended solely for the information and use of the Housing Authority and the U.S. Department of Housing and Urban Development, REAC, and is not intended to be and should not be used by anyone other than these specified parties.

Red arrows in the original image point to the following elements:

- One arrow points to the first paragraph of the report text.
- Three arrows point to the dates **03/31/2008**, **05/23/2008**, and **06/24/2008** in the second paragraph.

New Initiative – Enforcement with UFRS Rules

- A number of PHAs, normally related to Section 8 only PHA, are not in compliance with the submission requirements for FASS-PH
 - No submissions
 - Late Submissions
 - No audit
- HUD is currently following up with these PHAs and may take action (i.e., reduction of administrative fees, etc.)