

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANCE LISTING 14.872 PUBLIC HOUSING CAPITAL FUND (CFP)

I. PROGRAM OBJECTIVES

The primary objective of the Capital Fund Program (CFP) is to make assistance available to public housing agencies (PHAs) to carry out capital and management improvement activities. The CFP can also be used for demolition, resident relocation, resident economic development, security, financing costs, and homeownership. The CFP is the major source of funding made available by HUD to PHAs for their capital activities, including modernization and development of public housing.

The objectives of modernization activities are the repair/replacement of aging building systems and the improvement of the physical condition of existing public housing developments, including the redesign, reconstruction, addition, and reconfiguration of public housing sites, buildings, facilities and/or related appurtenances or improvements (including accessibility improvements).

The objectives of management improvement activities are to upgrade the operation of public housing developments, sustain physical improvements at those developments, or correct management deficiencies.

The objective of development activities is to provide PHAs with the opportunity to replace, build, or acquire units to house low-income families, including costs for planning, financing, land acquisition, demolition, and construction. PHAs are able to build or acquire units up to the Faircloth limits. The Faircloth limits for PHAs are posted here:

https://www.hud.gov/sites/dfiles/PIH/documents/Faircloth%20List_9-30-2018.pdf.

II. PROGRAM PROCEDURES

A. Overview

The CFP awards formula grants and several set aside specialty grants. CFP formula grants account for over 95 percent of CFP annual awards. CFP formula grants are made available to all PHAs that administer public housing units, based on a complex formula, which takes into account a number of variables related to unit characteristics and, ultimately, multiplies a per-unit amount by the number of units in the PHA. PHAs can use formula grants for any eligible Capital Fund activity.

The CFP also awards several set-aside specialty grants including: Replacement Housing Factor, Emergency/Disaster, Emergency/Disaster-Safety and Security, Emergency/Disaster-Carbon Monoxide, and Lead-Based Paint grants.

For Replacement Housing Factor RHF grants, these grants can only be used for the development of replacement housing units. In fiscal year (FY) 2014 RHF grants were replaced with Demolition and Disposition Transitional Funding (DDTF), which is included in the annual Capital Fund grant and not given as a separate grant. DDTF

operates in the same way as formula funds and can be used for any eligible Capital Fund activity. PHAs that were receiving years two to five of a first increment RHF grant, or years seven to ten of second increment funding in FY 2014 will continue to receive RHF grants until they have finished that increment. PHAs that were newly eligible for replacement funding in FY 2014 will receive DDTF as part of their formula grant.

For Emergency/Disaster grants, Congress has set aside an annual average of \$20 million within the Capital Fund account to assist PHAs that have incurred damage to their public housing units as a result of an emergency or natural disaster. PHAs submit an application for this funding. The funding is allocated based on the order in which the Department of Housing and Urban Development (HUD) receives approvable applications.

For Emergency Safety and Security grants, Congress has also set aside \$10 million for Emergency/Disaster Safety and Security grants. These grants support PHAs as they address the safety of public housing residents. These grants may be used to install, repair, or replace capital needs items including security systems/surveillance cameras, fencing, lighting systems, emergency alarm systems, window bars, deadbolt locks and doors. PHAs submit an application for this funding. The funding is allocated based on a lottery in which the Department of Housing and Urban Development (HUD) reviews approvable applications and enters the approvable applications in the lottery.

For Emergency Safety and Security-Carbon Monoxide, the Department has awarded \$5 million (of the \$10 million for Emergency Safety and Security) for Emergency Safety and Security-Carbon Monoxide grants. These grants support PHAs as they address the safety of public housing residents. These grants may be used to install carbon monoxide detectors in public housing. PHAs submit a competitive application for this funding. The funding is allocated based on application score.

For Lead-Based Paint grants, Congress has set aside anywhere from \$20 to \$45 million within the Capital Fund account to assist PHAs with lead challenges. These grants support PHAs as they address the safety of public housing residents. Lead-Based Paint grants may be used for lead-based paint inspection, risk assessment, clearance exams, relocation, and hazard controls. PHAs submit a competitive application for this funding. The funding is allocated based on application score.

For the Capital Fund Financing Program, HUD has permitted PHAs to borrow funding secured to a portion of future Capital Fund grants under the Capital Fund Financing Program (CFFP). PHAs have to obtain HUD's permission prior to borrowing funds securitized by any public housing asset (including real property, other PHA owned property purchased with federal grant funds, and CFP grant funds themselves). HUD reviews each transaction to ensure that PHAs will not be overcommitted to payment of debt service to the detriment of the public housing stock/program, for the reasonableness of the terms of the transaction, and to mitigate risk of default.

B. Subprograms/Program Elements

On an annual basis, the PHA submits a Public Housing Agency Plan (*OMB No. 2577-0226* – Form HUD-50075), based on the PHA fiscal year, to HUD for approval. Prior to submitting the plan to HUD for review and approval, the PHA must hold a public hearing and provide residents, local government officials, and other interested parties with an opportunity to comment on the proposed activities. In FY 2018, the budgeting process was moved to an electronic platform called EPIC for submission and approval.

A PHA, including a PHA qualified as exempt from submission of the CFP Annual Statement (HUD 50075.1 (*OMB No. 2577-0226*)), must have an approved 5-Year Action Plan (HUD 50075.2 (*OMB No. 2577-0226*)) in EPIC to have access to Capital Funds. Once HUD approves the annual statement (HUD 50075.1), it spreads Capital Funds to all of the appropriate budget line items (BLIs) in the Line of Credit Control System (LOCCS) in accordance with the information contained in the 5-Year Action Plan (HUD 50075.2). A PHA can then drawdown funds as needed on a three-day turnaround basis to pay for approved work activities. The three-day turnaround means the PHA expends the funds drawn down from LOCCS within three business days.

In planning its modernization projects, the PHA is required to consult with residents and local government officials. After grant award, the PHA may select an architect or engineer through competitive negotiation to develop the plans and specifications for the construction work. Construction work as well as management improvements may be carried out through contract labor (competitively procured) or the PHA's own work force (force account). The PHA or its architect monitors the work in progress for compliance with contract requirements and acceptable work quality and submits periodic progress reports to HUD.

PHAs may develop additional public housing, including mixed-financed housing in accordance with 24 CFR section 905.600. For development projects, the PHA is responsible for negotiating a local cooperation agreement that establishes what services the locality will provide to the public housing project, for project planning, and for submitting a development proposal (and a site acquisition proposal, if applicable). This includes selecting sites or properties to be acquired, contracting with builders to construct or rehabilitate housing, contracting with developers for the purchase of completed (new or rehabilitated) housing, and purchasing existing housing that may require repairs. In addition, as a developer, the PHA is responsible for selecting and contracting with other parties (e.g., architects and engineers) and for expediting and coordinating the preparation of required HUD submissions.

C. Other

In accordance with HUD's Uniform Financial Reporting Standards rule, annually, a PHA is required to submit financial statements, prepared in accordance with generally accepted accounting principles (GAAP), in the electronic format specified by HUD. The unaudited financial statement is due two months after the PHA's fiscal year end and the audited

financial statement is due nine months after its fiscal year end (24 CFR section 5.801). The financial statement must include the financial activities of this program.

PHAs file actual modernization cost certificates (AMCC) and actual development cost certificates (ADCC) with the local HUD Field Office when they complete a modernization or development project. The AMCC or ADCC is required for CFP grant closeout.

Source of Governing Requirements

The programs are authorized under 42 USC 1437g and 3535(d). The program implementing regulation is 24 CFR Part 905.

Availability of Other Program Information

HUD posts guidance on the CFP to its Office of Capital Improvements Home Page that provides grantees with information on timelines, budgets, financial instructions, and other program guidance. Information regarding the financial reporting requirements of the PHAs is provided by HUD on the Real Estate Assessment Center (REAC) website.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	N	Y	Y	N	N	N	Y

A. Activities Allowed or Unallowed

1. *Activities Allowed*

- a. For Capital Fund formula grants and grants from the set-aside for emergencies and natural disasters, allowed Capital Fund activities include the following: (1) developing, financing, or modernizing public housing; (2) vacancy reduction; (3) deferred maintenance; (4) replacement of obsolete utility systems and dwelling equipment; (5) code compliance; (6) management improvements; (7) demolition and replacement; (8) resident relocation; (9) resident economic empowerment/economic self-sufficiency; and (10) security; and homeownership (42 USC 1437g(d); 24 CFR section 905.200). A PHA with fewer than 250 units that is not designated as troubled under the Public Housing Assessment System (PHAS) may use up to 100 percent of its annual Capital Fund grant for activities that are eligible under the Operating Fund at 24 CFR Part 990 (see Assistance Listing 14.850, III.A, “Activities Allowed or Unallowed”), except that the PHA must have determined that there are no debt service payments, significant Capital Fund needs, or emergency needs that must be met prior to transferring 100 percent of its funds to operating expenses 24 CFR section 905.314(l).
- b. For Capital Fund Replacement Housing Factor (RHF) grants, activities are limited to the development of replacement housing (24 CFR section 905.400(i)).

2. *Activities Unallowed*

A PHA may not incur any cost in excess of the total HUD-approved PHA Plan, which includes the project budget. Budget revisions may be approved by HUD for deviations from the originally approved program. A PHA shall not incur any cost on behalf of any development that is not covered by its current approved 5-Year Action Plan (24 CFR section 905.200(a)).

B. Allowable Costs/Cost Principles

The amount of salary, including bonuses, of PHA chief executive officers, other officers, and employees paid with Section 8 Housing Choice Vouchers administrative fees and Section 9 Capital and Operating funds may not exceed the annual rate of basic pay payable for a federal position at Level IV of the Executive Schedule (currently \$170,800) (Section 227 of Pub. L. No. 113-235, 128 Stat. 2756, December 16, 2014, and carried forward in each subsequent appropriations act). Implementing guidance has been issued in PIH Notice 2016-14, “Guidance on Public Housing Agency (PHA) salary restriction in HUD’s annual appropriations.”

H. Period of Performance

1. Unless an extension is approved by HUD, a PHA must obligate at least 90 percent of each Capital Fund grant, including formula grants, RHF, natural disaster, and lead-based paint grants within 24 months of the funds of becoming available to the PHA for obligation. For emergency grants, safety and security grants and safety and security-carbon monoxide grants, the PHA must obligate at least 90 percent within twelve months of the funds becoming available. The funds become available when the HUD executes the ACC Amendment (24 CFR section 905.306).
2. For Capital Fund formula, RHF, natural disaster, and lead-based paint grants, unless HUD approves an extension, a PHA must expend all grant funds no later than 48 months after HUD executes the ACC Amendment (24 CFR section 905.306(f)). However, for emergency grants, safety and security grants and safety and security-carbon monoxide grants, a PHA must expend all grant funds no later than 24 months after HUD executes the ACC Amendment if such a requirement is contained in the ACC Amendment.

N. Special Tests and Provisions**1. Wage Rate Requirements**

Compliance Requirements Projects funded with Capital Funds that are developed and/or modernized in accordance with 24 CFR Part 905, Subpart F, including projects that contain only public housing units and mixed-finance projects are subject to the Wage Rate Requirements (42 USC 1437j(a) and (b); 24 CFR section 905.308).

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section.

2. FASS – PHA, Public Housing Assessment System Phase Indicator #2, Financial Condition, and HUD-50075, PHA Plans

Compliance Requirements On an annual basis the PHA must report its Financial Data Schedule (FDS) disclosing the financial condition of the PHA and on the transactions that the PHA is entering into with private and nonprofit entities (FDS Line Items 125, 144, and 347) (24 CFR section 902.33). In the FASS-PHA Financial Assessment Sub System,

the PHA transactions with nonprofit and private development entities are shown under the headings for HUD Programs and Business Activities Asset Management Property, or AMP (Low-Rent and Capital Fund Programs) for the Capital Fund Program. Such transactions would be noted in the FDS Line items shown above in Section III.L.1.d.(2). The FASS-PHA FDS is reviewed and approved or rejected by the REAC.

The PHA is required to report in the PHA Plan, in accordance with HUD 50075 (*OMB No. 2577-0226*), any transactions to be entered into with nonprofit and private development entities. The PHA submits the Capital Fund Program in Part III of the PHA Plan. The PHA Plan, Implementation Schedule, for each active grant details the eligible activities to be funded and the budget of estimated sources and uses. The PHA Plan is reviewed and approved by the HUD Field Office in the region in which the PHA is located.

Audit Objectives Determine whether the expenditures set out in the FDS line items that indicate participation by nonprofit and private development entities agree with the data reported in the PHA Plan.

Suggested Audit Procedures

- a. Review the data in FDS Line Items 125, 144, and 347 to determine the extent of nonprofit and private development entities utilizing the Capital Fund Program.
- b. Ascertain that the data in the FDS Line Items 125, 144, and 347 are substantially in agreement with the estimated sources and uses reported in the PHA Plan, Implementation Schedule (i.e., expenditures do not exceed the budget by 10 percent).

3. Debt Secured to Public Housing Asset

Compliance Requirements PHAs are only permitted to borrow funds secured to public housing assets (including real property, other PHA owned property purchased with federal grant funds and CFP grant funds themselves) if they have obtained HUD's authorization prior to creating a security interest in public housing assets. This requirement does not prohibit a PHA from borrowing funds that are unsecured or that are not secured to public housing assets. In granting the required authorization, HUD will issue both an approval letter as well as a CFFP ACC Amendment (42 USC 1437z-2).

Audit Objectives Determine whether any debt incurred by the PHA that is secured to public housing assets is duly authorized by HUD.

Suggested Audit Procedures

- a. Review the PHAs balance sheet to determine if the PHA has incurred a debt.
- b. Examine the documentation that evidences the debt (loan /bond agreement, etc.) to determine if the debt is secured to public housing assets.

- c. If the debt is secured to public housing assets, verify that the PHA has the required HUD approval letter authorizing the debt.

4. Environmental Review

Compliance Requirements An environmental review must be completed for any project or activities before a PHA may acquire, rehabilitate, convert, lease, repair or construct property, or commit HUD or local funds at an assisted or to-be-assisted site.

Environmental review procedures for PHAs are given in PIH Notice 2016-22 HA, “Environmental Review Requirements for Public Housing Agencies.” The environmental reviews are not tied to specific grants but apply to all the operating and capital activities of the PHA for a five-year period. The Notice cites the governing regulations at 24 CFR parts 50 and 58 and describes the methods of review and types of determinations. All of these methods and types culminate in a final approval document signed by a HUD Approving Official. To be in compliance a PHA must have such an approval document with an approval date that is not over five years old. This approval may be in any the following forms:

- a. Form HUD-7015.16, “Authorization to Use Grant Funds”
- b. Form HUD-4128, “Environmental Assessment and Compliance Findings for the Related Laws”
- c. Form HUD-4128-OHF, “Environmental Assessment and Compliance Findings for the Related Laws”
- d. Determination Letter
- e. An electronic signature in the HUD Environmental Review Online System (HEROS)
- f. Activities listed in Notice 2016-22, Appendix A, require no further environmental review.

Audit Objectives Determine whether (1) the required environmental reviews have been performed, (2) exemptions to an environmental assessment are properly documented, and (3) program funds were not obligated or expended prior to completion of the environmental review process.

Suggested Audit Procedures

- a. Verify through a review of environmental review certifications that the environmental reviews were conducted for projects and activities unless an exemption was made.
- b. Select a sample of projects or activities when an environmental review was performed.

- c. Test whether program funds were committed only after the PHA has secured environmental clearance.

5. Insurance Proceeds

Compliance Requirements PHAs are required to use insurance proceeds to promptly restore, reconstruct, and/or repair any damaged or destroyed property of a project, except when a written approval of HUD instructs a PHA to do otherwise. Unspent insurance proceeds are normally recorded as cash-restricted modernization and development, FDS line 112, up to the amount of the repair (Section 13 of Part A of ACC).

Emergency and Natural Disaster Reserve – In cases of unforeseeable and unpreventable emergencies that include damages to the physical structure of the housing stock, PHAs may request funding from the Emergency and Natural Disaster Reserve of the Capital Fund, an appropriated set-aside of the Capital Fund. Such grants would have a “D” or an “E” as the fifth character in the grant number. The approval for these grants requires that the PHA pay first from any insurance proceeds, but while the PHA’s warranty or insurance policy may cover the damages fully or partially, it usually takes time for the PHA to receive the insurance proceeds. These grant funds may be used to cover any costs not met with insurance proceeds, but any remaining funds must be returned to HUD. If these grant funds are used before insurance proceeds are received, the PHA must pay back the Emergency and Natural Disaster Reserve.

Audit Objectives Determine whether the PHA has used its insurance proceeds to promptly repair claimed damages and has used the Emergency or Natural Disaster grant funds only for costs in excess of the insurance recoveries. Determine whether the PHA paid the funds back to Emergency and Natural Disaster Reserve, as may be required.

Suggested Audit Procedures

- a. Ascertain if the PHA has received any insurance proceeds for damaged or destroyed property.
- b. Ascertain if the PHA received a grant from the Emergency and Natural Disaster Reserve.
- c. Verify that insurance proceeds received in advance of contractor or repair bills are placed in a restricted cash account.
- d. Review contractor invoices and repair expenses to verify insurance proceeds were used to cover allowable expenses.
- e. Verify that the PHA used insurance proceeds to meet repair or replacement costs before using emergency or natural disaster grant funds.
- f. Verify that emergency or natural disaster grant funds not needed to meet the capital needs for which the grant was made were returned to HUD.

6. Capital Funds for Operating Costs

Compliance Requirements Capital Funds transferred to operations (BLI 1406) are not considered obligated until the PHA has budgeted and drawn down the funds. To meet this requirement, the funds must be budgeted in line BLI 1406 (Operations) and the PHA must submit the voucher request in LOCCS. The PHA's reported obligation amount in LOCCS must be the same amount in the PHA's accounting system since the date of the voucher request in LOCCS is the point of obligation for funds in BLI 1406. The voucher request date must occur before those funds are reported as obligated in LOCCS under the Obligation & Expenditure tab (24 CFR section 905.314(l)).

Audit Objectives Determine whether obligations for operations costs are recorded properly.

Suggested Audit Procedures

- a. Review the PHA's vouchers for funds expended from BLI 1406.
- b. Examine the voucher request dates against the reported obligation amounts in the LOCCS Obligation & Expenditure tab.
- c. Verify that the voucher request dates were before the funds were reported as obligated and the dollar value of the voucher requests corresponds to the reported obligated amount.

IV. OTHER INFORMATION

The Moving to Work (MTW) demonstration program (Assistance Listing 14.881) allows selected PHAs the flexibility to design and test various approaches to providing and administering housing assistance consistent with the MTW Agreement executed by the PHA and HUD. An MTW agency may combine funds from the following three programs:

- Section 8 Housing Choice Vouchers (Assistance Listing 14.871)
- Public Housing Capital Fund (Assistance Listing 14.872)
- Public and Indian Housing (Assistance Listing 14.850)

If a PHA is operating under an MTW Agreement, the auditor should look to the MTW Agreement to determine which funds are included in the MTW Agreement. If CFP funds are transferred out of CFP, pursuant to an MTW Agreement, they are subject to the requirements of the MTW Agreement and should not be included in the audit universe and total expenditures for CFP when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amounts transferred out should not be shown as CFP expenditures but should be shown as expenditures for the MTW Demonstration program. Also, if other program funds are transferred into the CFP account pursuant to an MTW Agreement, all of the CFP funds would then be considered MTW funds.

Where the MTW agency does not transfer all the funds from the CFP into the MTW account or another of the authorized program, those funds would be considered, and audited, under the CFP.