



# CAPITAL FUND PLANNING, IMPLEMENTATION, AND REPORTING

*Day 5*



**LEAD THE WAY**

PHA GOVERNANCE AND  
FINANCIAL MANAGEMENT  
A Training for Board Members and Staff



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# 01 Pre-Test

## Day 5—Capital Fund Planning, Implementation and Reporting—Knowledge Assessment—Pre-Test

Note to leader: This pre-test is intended to gauge the existing knowledge of the students as they begin Day Four of the training. You may wish to request that students take this quiz upon registration of the class (using an electronic survey method), or when the class begins. You may wish to review the answers ahead of time and tailor the instruction accordingly, or allow students to keep the quiz with them to use as a reference throughout the course.

1. Only Non-Qualified PHAs must do a five-year plan every five years.
  - a) True
  - b) False
2. All of the items below define a Qualified PHA except:
  - a) Has a combined unit total of 250 or fewer public housing units and Section 8 vouchers
  - b) Is not designated “troubled” under Section 6(j)(2) of the 1937 Act, the Public Housing Assessment System (PHAS), as a troubled public housing agency during the prior 12 months
  - c) Has a combined unit total of 550 or fewer public housing units and Section 8 vouchers
  - d) Does not have a failing score under the Section 8 Management Assessment Program (SEMAP) during the prior 12 months
3. RAB comments and the PHA response are part of the annual plan.
  - a) True
  - b) False
4. The penalty for failure to obligate 90 percent of a Capital Fund grant is to recapture the unobligated funds after the obligation end date.
  - a) True
  - b) False
5. Data used to calculate the CFP formula include all except (**select all that apply**):
  - a) # of elderly units
  - b) Date of full availability (DOFA)
  - c) # of non-dwelling units
  - d) # of occupants per unit
  - e) # of removed units
  - f) # of standing units

6. All of the following are eligible costs under the Capital Fund except (select all that apply):
  - a) Development
  - b) Demolition and conversion
  - c) Direct provision of social services
  - d) Physical improvements
  - e) Resident homeownership
7. A PHA qualified for an emergency grant from the set-aside for Emergency and Natural Disasters in the Capital Fund, if:
  - a) The emergency impacts the immediate health or safety of residents
  - b) The PHA has no funds in its contingency line item on any of its open grants
  - c) The PHA has exhausted all unobligated funds and does not have any resources to address the emergency
  - d) All of the above
  - e) a and b only
  - f) a and c only
8. How many years from the date funds are made available does the PHA have to obligate 90 percent of a Capital Fund grant?
  - a) 4 years
  - b) 2 years
  - c) 1 year
9. A significant amendment to the PHA plan requires:
  - a) A public hearing
  - b) Consultation with the RAB
  - c) 45-day notice of a public hearing
  - d) c and d
  - e) a and b
  - f) All of the above
10. A Qualified PHA must submit a signed and dated original and two copies of the ACC amendments for each Capital Fund Grant.
  - a) True
  - b) False

## 02 Agenda

8:30-9:00	Welcome and Pre-Test
9:00-10:15	01 Module 1: Purpose of a PHA Plan on <a href="#">page 7</a>
10:15-10:30	Break
10:30-12:00	02 Module 2: Capital Fund Program on <a href="#">page 21</a>
12:00-1:00	Lunch
1:00-1:45	Module Two (continued)
1:45-2:15	03 Module 3: Alternative Finance Programs (Capital Fund Financing Program, Operating Fund Finance Program, & the Public Housing Mortgage Program) on <a href="#">page 41</a>
2:15-2:30	Break
2:30-3:30	04 Module 4: Public Housing Development on <a href="#">page 50</a>
3:30-4:00	Post-Test and Evaluation

## Course Objectives

### *Day 5, Slide 3*

The purpose of this course is to inform public housing agencies (PHAs) of the requirements of the PHA plan and the Capital Fund Program requirements.

Upon completion of this course, participants will be able to:

- Define key components of the PHA plan.
- Define eligible and ineligible costs for the Capital Fund.
- Understand requirements for Mixed-Finance Proposals.
- Define the role of the Line of Credit Control System (LOCCS).
- Understand the penalties and sanctions for failure to obligate and expend Capital Fund Program Grants.
- Understand the requirements of Qualified PHAs.
- Understand the eligibility requirements for Disaster and Emergency Capital Fund grants.
- Understand requirements for Mixed-Finance proposals.

## 03 Module 1: Purpose of a PHA Plan

*Note: Slides 4-24 correspond with this module.*

### What is a PHA Plan?

*Day 5, Slides 5-7*

The Public Housing Reform Act requires submission of both a five-year and an annual plan.

The five-year PHA plan describes the agency's mission and the long-term plan for achieving that mission over the subsequent five years. **All PHAs must submit a five-year plan every fifth year.** The five-year plan only covers mission, goals, objectives, and Violence Against Women Act requirements. When submitting the five-year plan, the Qualified PHA must include the Civil Rights Certification in its electronic submission. PHA policies and procedures are not included in the five-year plan.

The annual plan provides details about the PHA's current programs and the resident population served, as well as the PHA's strategy for addressing the housing needs of currently assisted families and the larger community.

### QUALIFIED PHAS

*Day 5, Slide 8*

The Housing and Economic Recovery Act (HERA), Title VII, Small Public Housing Authorities Paperwork Reduction Act exempted Qualified PHAs from the requirement to prepare and submit an annual plan. However, Qualified PHAs are required to hold an annual public hearing to review the PHA's goals and objectives, annually submit the 50077 CR form, Civil Rights Certification, and submit a five-year plan.

A Qualified PHA is a PHA that:

11. Has a combined unit total of 550 or fewer public housing units and Section 8 vouchers
12. Is not designated "troubled" under the Public Housing Assessment System (PHAS), or as a "troubled" during the prior 12 months
13. Does not have a failing score under the Section 8 Management Assessment Program (SEMAP) during the prior 12 months.

The listing for Qualified PHAs is posted on the PHA Plan website. This qualification is subject to change, as size and PHAS scores of PHAs change from time to time.

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/pha](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/pha)

### NON-QUALIFIED PHAS

*Day 5, Slides 9-17*

Non-Qualified PHAs are required to submit an annual plan each year, **75 days** before the beginning of the PHA fiscal year. The annual plan is required to include the following:

- Statement of housing needs
- Deconcentration policy, waiting list, and other policies that govern eligibility, selection, and admissions
- Financial resources
- Rent determination policies
- Operation and management
- Grievance procedure
- Capital improvements
- Demolition and disposition
- Designation of housing for people who are elderly and disabled
- Conversion of public housing, both mandatory and voluntary
- Homeownership programs
- Community service and self-sufficiency
- Safety and crime prevention measures
- Pet ownership in public housing
- Annual audit results
- Asset management
- Violence Against Women Act requirements
- Other information
  - Progress in meeting the mission and goals of the five-year plan
  - Definition of significant amendment and substantial deviation
  - Required certifications (including Civil Rights Certification)
  - Any other information requested by HUD
- **Resident Advisory Board:** Each Non-Qualified PHA must establish one or more Resident Advisory Boards whose membership consists of individuals that reflect and represent the residents assisted by the PHA.
- **Public Hearing:** Non-Qualified PHAs must conduct an annual public hearing on the PHA plan.
- **Public Display Requirements:** PHA plans, including any attachments and supporting documents, must be available for inspection by the public at the principal office of the PHA during normal business hours.
- **Consistency with the Consolidated Plan**



## Review of PHA Plan and Timetable

### *Day 5, Slides 18-20*

The steps involved in completing a plan are discussed below. Many of these steps require coordination with other organizations and agencies, as well as the Resident Advisory Board (RAB). It is important, therefore, that the PHA begin the plan development process well ahead of the due date for the plan (which is 75 days prior to the commencement of the PHA's fiscal year). The PHA should be aware that Steps 3 through 11 are mandated by the regulation (24 CFR 903) and apply to both the annual and the five-year plan.

#### **1. ESTABLISH SCHEDULE**

The first step in the plan development process is to establish a schedule for the plan's completion. The annual PHA plan is due 75 days prior to commencement of the PHA's fiscal year. The PHA's schedule for the plan's development should build in sufficient time for the following:

- Submission of the plan by the due date
- The 45-day public review period
- The public hearing and incorporation of public comments received on the plan
- Obtaining the proper signed certifications and board certification

The PHA should begin the process of plan development well ahead of the due date for submission.

#### **2. GATHER TEMPLATE AND GUIDANCE**

The PHA should obtain the template and appropriate guidance from the PHA Plans' website: [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/pha](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/pha). The PHA should update references to both the PHA fiscal year and the federal fiscal year made throughout the plan and the attachments.

#### **3. ESTABLISH RAB(S)**

Early on in the process, the PHA should establish the Resident Advisory Board or Boards (see Resident Community Involvement).

#### **4. CONSULT WITH CONSOLIDATED PLAN AGENCY**

The next step in the process is consultation with the Consolidated Plan agency in the PHA's jurisdiction(s). There are several reasons for this consultation and collaboration. Most important, PHAs must submit a 50077-SL form, "State or Local Government Certification of Consistency with the Consolidated Plan" along with the PHA plan. In addition, this agency may be the best source of information for identifying housing needs in the community.

#### **5. GATHER RELEVANT PHA DOCUMENTS AND INFORMATION**

The PHA should gather relevant documents and policies. It is useful to review these policies and determine whether they need to be updated or revised. Many of these documents serve as "supporting

documents” to the plan. If the PHA will implement new policies in the coming fiscal year (such as a new preference structure or establishment of site-based waiting lists), this is the time to develop these policies for inclusion as supporting documents to the PHA plan. The public hearing held for the PHA plan will then serve as the public hearing for all of these new policies to be adopted and implemented by the PHA at the beginning of the PHA’s fiscal year.

## 6. DEVELOP THE PLAN

The next step in the process is the actual development of the PHA plan. This step involves consultation with the RAB, partner agencies, and organizations, as well as review of the information the PHA has gathered regarding housing needs, resources, and PHA policies.

## 7. PUBLISH NOTIFICATION AND MAKE PLAN AVAILABLE FOR PUBLIC REVIEW

PHA plans, including any attachments and supporting documents, must be available for inspection by the public at the principal office of the PHA during normal business hours. This applies during the public review period, prior to the board hearing and submission to HUD, and after HUD approval of the PHA plan. **For easy access by the public, HUD strongly encourages PHAs to make the PHA plans, attachments, and supporting documentation available on the agency website.**

Once the plan is fully developed, the PHA then publishes a notification of a public meeting not less than **45 days prior to the meeting**. The notice must be published in a newspaper of general circulation. In addition, a PHA may use its newsletter to notify residents and ensure that partner agencies and organizations are informed. The notice should inform the public that the PHA plan is available for review, and that a public hearing will be held, noting the date, time, and location of the hearing. The PHA should make the proposed plan, all attachments, and supporting documents related to the plan, as well as all information relevant to the public hearing, available for review by the public at the PHA’s principal office during normal business hours.

PHAs are required to conduct reasonable outreach activities to encourage broad public participation. A **45-day public review period** allows residents and members of the community adequate time to review the PHA plan and the supporting documents. HUD encourages PHAs to make the PHA plan available at their principal business office (or at several offices if the area served by the PHA covers more than one jurisdiction). PHAs are also encouraged to make the PHA plans and attachments available at other public locations, such as libraries or community centers, as well as PHA or community websites.

## 8. HOLD PUBLIC HEARING

The PHA is required to hold a public meeting to discuss the plan and receive public comments on the PHA plan every year. No later than **45 days before the date of the public hearing**, the PHA shall make the proposed PHA plan and all information relevant to the hearing and proposed plan available for inspection by the public at the principal office of the PHA during normal business hours. The PHA’s board of commissioners or similar governing body must conduct this public hearing in a location that is accessible to the residents served by the PHA. It is best to hold the public hearing with sufficient time before the plan is due to HUD—a minimum of one week is recommended—to give the PHA time to incorporate pertinent public comments into the PHA plan. The PHA may also receive written comments

from the RAB on the plan. The PHA will then use the public comments and RAB recommendations to revise the plan as necessary.

## 9. OBTAIN SIGNATURES ON CERTIFICATION

The PHA should obtain all the necessary signatures on the required certifications that accompany the PHA plan submission. In addition, the PHA board must provide a signed 50077 form, Certification of Compliance with the PHA Plans and Related Regulations, and Board Resolution to Accompany the PHA Plan Five-Year and Annual PHA Plan.

## 10. SUBMIT COMPLETED ELECTRONIC TEMPLATE

Finally, the PHA submits the completed PHA plan template electronically and mails in the signed certifications.

Directions for Internet submission are available on the HUD PHA Plans website at <http://www.hud.gov/offices/pih/pha/submit>. The PHA Certifications of Compliance with the PHA Plans and Related Regulations (form HUD-50077) may be submitted with signature by mail or electronically with scanned signatures, but electronic submission to the appropriate HUD Field Office is encouraged. **HUD will not consider the PHA plan ready for review until the form HUD-50077 has been received at the appropriate local HUD Field Office.**

In addition to the form HUD 50077, PHAs must also submit to their local Field Offices the documents listed below. These documents may be submitted with signature by mail or electronically with scanned signatures, but electronic submission is encouraged.

1. Form HUD-50071, Certification of Payments to Influence Federal Transactions (Capital Fund only): <http://portal.hud.gov/hudportal/documents/huddoc?id=50071.pdf>
2. SF-LLL, Disclosure of Lobbying Activities (Capital Fund only): <http://www.whitehouse.gov/omb/grants/sfillin.pdf>
3. SF-LLL-A, Disclosure of Lobbying Activities Continuation Sheet (Capital Fund only): <http://www.gsa.gov/portal/forms/download/116434>
4. Resident Advisory Board (RAB) comments (all PHAs). Comments received from the RAB must be submitted by the PHA as an attachment to the PHA plan. PHAs must also include a narrative describing their analysis of the recommendations and the decisions made on these recommendations.
5. Challenged elements (all PHAs)
6. Form HUD-50075.1 (Capital Fund only)
7. Form HUD-50075.2 (Capital Fund only)

The HUD Field Offices will not accept faxed copies of these documents.

Although not included in the submission to HUD, PHAs are still required to obtain and retain in their records a certification by a state or local official of the PHA plan's consistency with the consolidated plan.

## **11. OBTAIN HUD REVIEW AND APPROVAL**

HUD will review the plan and may request additional information or a revision to the PHA plan. HUD will inform the PHA when the plan is approved and post it on the PHA plans website on the “Approved Plans” page. If HUD fails to take action to disapprove the plan within 75 days, the PHA plan is automatically approved. Approval of the plan does not constitute approval of all proposals in the plan. For example, any proposed development, demolition, or disposition must be approved through a separate application process.

If a PHA fails to submit a PHA plan in a timely manner, HUD may impose sanctions. HUD may apply sanctions to any PHA that has not submitted its plan within 75 days of the due date.

## **The PHA Plan Components**

*Day 5, Slides 21-24*

### **ELIGIBILITY, SELECTION, AND ADMISSIONS POLICIES, INCLUDING DE-CONCENTRATION AND WAITLIST PROCEDURES**

Describe the PHA’s policies that govern resident or tenant eligibility, selection, and admission, including admission preferences for both public housing and HCV and unit assignment policies for public housing; as well as procedures for maintaining waiting lists for admission to public housing and addressing any site-based waiting lists.

### **FINANCIAL RESOURCES**

Include a statement of financial resources, including a listing by general categories, of the PHA’s anticipated resources, such as PHA Operating, Capital, and other anticipated federal resources available to the PHA, as well as tenant rents and other income available to support public housing or tenant-based assistance. The statement also should include the non-federal sources of funds supporting each federal program, and state the planned use for the resources.

### **RENT DETERMINATION**

Include a statement of the PHA’s policies governing rents charged for public housing and HCV dwelling units.

Within specified guidelines, PHAs are allowed to use discretionary policies for determining income-based rent for their public housing units. In addition, PHAs can set the Section 8 voucher payment standard (or maximum subsidy level) at a level from 90 percent to 110 percent of the Fair Market Rent. In this plan component, the PHA describes its basic policies and the discretionary choices it has made regarding rent setting for assisted families. For public housing units, this includes income-based, minimum, and flat rents, as well as optional rent policies, such as optional deductions. For families receiving Section 8 voucher assistance, the plan addresses topics such as minimum rents and payment standard policies.

## **OPERATION AND MANAGEMENT**

Include a statement of the PHA's rules, standards, and policies governing maintenance management of housing owned, assisted, or operated by the public housing agency (which shall include measures necessary for the prevention or eradication of pest infestation, including cockroaches), and management of the PHA and programs of the PHA.

## **GRIEVANCE PROCEDURES**

Include a description of the grievance and informal hearing and review procedures that the PHA makes available to its residents and applicants.

## **DESIGNATED HOUSING FOR ELDERLY AND DISABLED FAMILIES**

With respect to public housing projects owned, assisted, or operated by the PHA, describe any projects (or portions thereof), in the upcoming fiscal year, that the PHA has designated or will apply for designation for occupancy by elderly and disabled families. The description shall include the following information:

1. Development name and number
2. Designation type
3. Application status
4. Date the designation was approved, submitted, or planned for submission
5. The number of units affected

## **COMMUNITY SERVICE AND SELF-SUFFICIENCY**

Include a description of:

1. Any programs relating to services and amenities provided or offered to assisted families
2. Any policies or programs of the PHA for the enhancement of the economic and social self-sufficiency of assisted families, including programs under Section 3 and FSS
3. How the PHA will comply with the requirements of community service and treatment of income changes resulting from welfare program requirements (Note: this applies to only public housing)

## **SAFETY AND CRIME PREVENTION**

For public housing only, describe the PHA's plan for safety and crime prevention to ensure the safety of the public housing residents. The statement must include:

1. A description of the need for measures to ensure the safety of public housing residents
2. A description of any crime prevention activities conducted or to be conducted by the PHA
3. A description of the coordination between the PHA and the appropriate police precincts for carrying out crime prevention measures and activities

## **PETS**

Include a statement describing the PHA's policies and requirements pertaining to the ownership of pets in public housing.

## **CIVIL RIGHTS CERTIFICATION**

A PHA will be considered in compliance with the Civil Rights and AFFH Certification if it:

1. Can document that it examines its programs and proposed programs to identify any impediments to fair housing choice within those programs
2. Addresses those impediments in a reasonable fashion in view of the resources available
3. Works with the local jurisdiction to implement any of the jurisdiction's initiatives to affirmatively further fair housing
4. Ensures that the annual plan is consistent with any applicable Consolidated Plan for its jurisdiction

## **FISCAL YEAR AUDIT**

Include the results of the most recent fiscal year audit for the PHA. PHAs that expend \$500,000 or more in federal funds must include the results of the most recent year fiscal year audit as required under the Single Audit Act, as implemented by OMB Circular A-133. The Single Audit Act Amendment of 1996 exempts any PHA that expends less than \$500,000 in federal dollars in a fiscal year from the Single Audit requirement, as well as from individual federal program award audit requirements. (See 24 CFR 903.7 (p).)

The PHA must state if there were any findings as a result of the audit. If there are findings, the PHA must disclose the number of findings that it may still have outstanding. The PHA must denote if it has submitted a response to any open finding to the local HUD Field Office.

## **ASSET MANAGEMENT**

Include a statement of how the agency will carry out its asset management functions with respect to the public housing inventory of the agency, including how the agency will plan for the long-term operating, capital investment, rehabilitation, modernization, disposition, and other needs for such inventory.

## **VIOLENCE AGAINST WOMEN ACT (VAWA)**

On January 5, 2006, President Bush signed the Violence Against Women Act (VAWA) into law as Public Law 109-162. Section 603 of the law amends Section 5A of the U.S. Housing Act (42 U.S.C. 1437c-1) to require five-year and annual PHA plans to contain information regarding any goals, activities, objectives, policies, or programs of the PHA that are intended to support or assist survivors of domestic violence, dating violence, sexual assault, or stalking. On March 16, 2007, a Federal Register (FR) Notice was published regarding the applicability of VAWA to HUD programs. This FR provided further guidance on VAWA and provided that PHAs must include the statement required by VAWA 2005 in the next regularly scheduled plan submission. PHAs are encouraged to amend or modify their plans before the next regular submission as provided in 24 CFR 903.21.

When including VAWA in the plan, PHAs must include a description of the following items as an attachment to the plan.

- Any activities, services, or programs provided or offered by an agency, either directly or in partnership with other service providers, to child or adult survivors of domestic violence, dating violence, sexual assault, or stalking
- Any activities, services, or programs provided or offered by a PHA that help child and adult survivors of domestic violence, dating violence, sexual assault, or stalking to obtain or maintain housing
- Any activities, services, or programs provided or offered by a public housing agency to prevent domestic violence, dating violence, sexual assault, and stalking, or to enhance survivor safety in assisted families

PHAs are also encouraged to describe in their VAWA statements the PHA procedures in place that ensure that tenants are notified of their rights under VAWA.

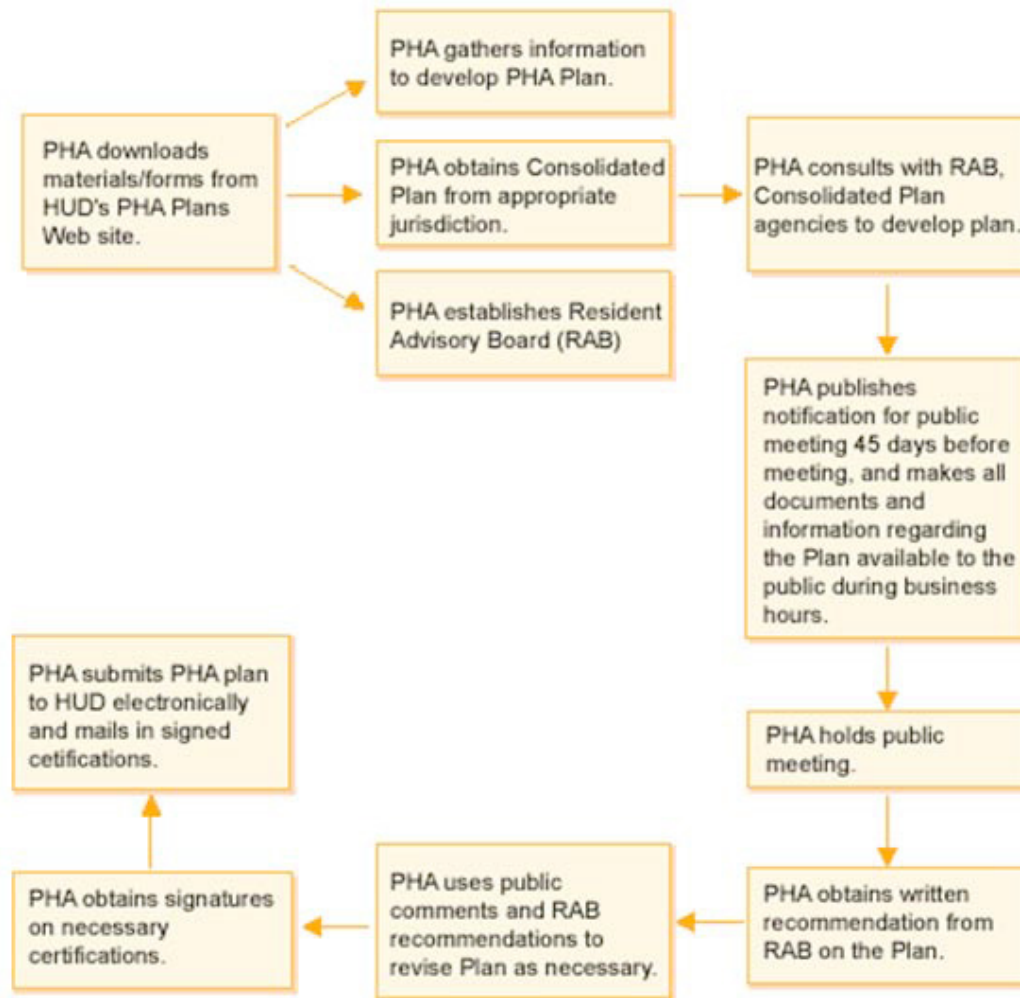
### **DEMOLITION AND DISPOSITION**

Include a statement of any proposed public housing development or portion of a public housing development owned by the PHA (i.e., under ACC and Declaration of Trust) proposed for demolition and/or disposition under Section 18 of the 1937 Act. The application and approval process for demolition and/or disposition is a separate application process through the Special Applications Center (SAC). Consequently, approval of the PHA plan does not constitute approval of the proposed demolition and/or disposition.

### **CAPITAL IMPROVEMENTS NEEDED**

Include a description of the capital improvements necessary to endure long-term physical and social viability of the PHA's developments, including the capital improvements to be undertaken in the year, their estimated costs, and any other information necessary, including a Five-Year Action Plan.

## PHA Plan Development Process





## Module 1 Knowledge Check

*This knowledge check should be completed at the end of Module 1. Participants should circle their chosen answer. Leaders should review the correct answer using the following answer key once participants complete the knowledge check.*

1. The five-year plan describes a PHA's mission and the long-term plan for achieving its mission over the subsequent five years.
  - a) True
  - b) False
2. All PHAs must submit a five-year plan every:
  - a) Year
  - b) Other year
  - c) Fifth year
3. The document a PHA uses to identify its plans for the current year CFP activities is the:
  - a) Five-year plan
  - b) Annual plan
4. A Qualified PHA is exempted from submitting which document every year?
  - a) The five-year plan
  - b) The annual plan
  - c) Both a and b
5. Non-Qualified PHAs are required to submit which document 75 days before the beginning of their fiscal year?
  - a) The five-year plan
  - b) The annual plan
6. A good time to review PHA policies to see if changes are needed is during the annual plan development process.
  - a) True
  - b) False
7. Once the annual plan is fully developed, the PHA must publish a notification of a public meeting not less than:
  - a) 30 days prior to the meeting
  - b) 45 days prior to the meeting
  - c) 60 days prior to the meeting
  - d) 90 days prior to the meeting



8. Both Qualified and Non-Qualified PHAs are required to hold a public meeting to discuss the annual plan and receive public comments on the plan every year.
  - a) True
  - b) False
9. All PHAs must obtain and retain in their records a certification by a state or local official that the PHA's plan is consistent with the Consolidated Plan.
  - a) True
  - b) False
10. PHA five-year and annual plans must contain information regarding any goals, activities, objectives, policies, or programs of the PHA that are intended to support or assist survivors of domestic violence, dating violence, sexual assault, or stalking.
  - a) True
  - b) False

***Stop: Do not proceed until the training Leader prompts you to turn the page.***

## Module 1 Knowledge Check

### Answer Key

Correct answers are indicated in **bold**.

1. The five-year plan describes a PHA's mission and the long-term plan for achieving its mission over the subsequent five years.
  - a) **True**
  - b) False
2. All PHAs must submit a five-year plan every:
  - a) Year
  - b) Other year
  - c) **Fifth year**
3. The document a PHA uses to identify its plans for the current year CFP activities is the:
  - a) Five-year plan
  - b) **Annual plan**
4. A Qualified PHA is exempted from submitting which document every year?
  - a) The five-year plan
  - b) **The annual plan**
  - c) Both a and b
5. Non-Qualified PHAs are required to submit which document 75 days before the beginning of their fiscal year?
  - a) The five-year plan
  - b) **The annual plan**
6. A good time to review PHA policies to see if changes are needed is during the annual plan development process.
  - a) **True**
  - b) False
7. Once the annual plan is fully developed, the PHA must publish a notification of a public meeting not less than:
  - a) 30 days prior to the meeting
  - b) **45 days prior to the meeting**
  - c) 60 days prior to the meeting
  - d) 90 days prior to the meeting

8. Both Qualified and Non-Qualified PHAs are required to hold a public meeting to discuss the annual plan and receive public comments on the plan every year.
  - a) True
  - b) **False**
9. All PHAs must obtain and retain in their records a certification by a state or local official that the PHA's plan is consistent with the Consolidated Plan.
  - a) **True**
  - b) False
10. PHA five-year and annual plans must contain information regarding any goals, activities, objectives, policies, or programs of the PHA that are intended to support or assist survivors of domestic violence, dating violence, sexual assault, or stalking.
  - a) **True**
  - b) False

## 04 Module 2: Capital Fund Program

*Note: Slides 26-56 correspond with this module.*

### Overview

*Day 5, Slide 27*

Each year, the Department allocates Capital Fund grants to PHAs under the Capital Fund Program, authorized by Section 9(d) of the United States Housing Act of 1937,<sup>1</sup> and provides for a Capital Fund for the purpose of making assistance available to PHAs to carry out capital and management improvement activities. The Capital Fund Program replaces former legacy programs of Comprehensive Improvement Assistance Program (CIAP) and the Comprehensive Grant Program. The Department uses a formula that was established by negotiated rulemaking to calculate the funding amount for each Capital Fund grant for each PHA. The formula is designed to provide funding to determine the backlog of needs of older public housing developments in addition to the accrual needs of all public housing developments. The Department bases its formula calculation extensively on data submitted to HUD by PHAs in the IMS/PIC system.

The Capital Fund Program appropriation funds several types of grants, including formula grants, replacement housing factor grants (RHF), emergency and natural disaster grants, Community Facilities Grants, and Safety and Security grants. The emergency and natural disaster grants are funded from a set-aside established in the HUD Appropriations Acts from year to year. The Community Facilities Grants and Safety and Security grants fund special PHA needs. These grants are competitive grants established in the Appropriations Acts from year to year.

### Capital Fund Formula

*Day 5, Slide 27*

#### IMS/PIC

*Day 5, Slides 28-32*

In order to complete the certification process, PHAs must interact with two related IMS/PIC websites: the Capital Fund Building and Unit Data Certification tab page and the Development Details website.<sup>2</sup> PHA staff that is inputting certification data into the two pages should refer to the **step-by-step guide** to the certification websites referenced above.

The Capital Fund Building and Unit Data Certification tab is located in the Development submodule under the Housing Inventory module. Once a PHA selects the tab page, the screen will display a list of all of the public housing developments that the Department will include in calculating the Capital Fund formula allocation. Note that the tab page will not display developments that either have no Date of Full Availability (DOFA) date or that have a DOFA date later than the “reporting date” because those

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<sup>1</sup> Section 14 of the Act, which provided for CIAP and CGP, was eliminated by QWHRA in 1999 and replaced by Section 9, which established the Capital Fund Program.

<sup>2</sup> <http://www.hud.gov/offices/pih/programs/ph/capfund/index.cfm>

developments will not be factored into the formula calculation. The page also contains a column that displays on a development-by-development basis whether a PHA has certified to the accuracy of the data for the development or whether the PHA cannot certify to the accuracy of the data.

In addition to installing the Capital Fund Building and Unit Data Certification tab page, the Department also installed a secondary Development Details website for each development in a PHA's inventory. The Development Details page contains the primary data that the Department will use to calculate the Capital Fund formula share for that development. The data includes:

- The number of standing units
- The number of removed units
- The number of non-dwelling units
- The number of elderly units
- The number of family units
- The standing unit bedroom count
- The removed unit bedroom count

All of these data elements reflect data that PHAs have entered or uploaded into IMS/PIC.

PHAs should always double check that the PIC system has properly calculated changes in DOFA dates whenever a PHA reassigns buildings from one development to another.<sup>3</sup>

For any PHA that fails to certify by the deadline for completion of the certification process, the Department will extract its data from IMS/PIC on the first business day after the deadline and store it in a separate database. When the Department calculates the Capital Fund formula for all PHAs, it will use the uncertified data to calculate a grant amount for any PHAs that have not yet certified. The Department will issue an ACC amendment reflecting the grant amount calculated with uncertified data, but it will suspend the grant pending receipt of the certification. If a PHA certifies after the deadline date, the Department shall compare the certified data with the uncertified data available the day after the certification deadline. The Department will use the data from the comparison that results in the lowest funding level to calculate the funding to be made available to the late-certifying PHA. Note that late-certifying PHAs shall remain subject to the obligation and expenditure deadlines for their Capital Fund grants. If the PHA delays in completing its certification, HUD **will not** extend the obligations and expenditures deadlines.

## Eligible Costs

### *Day 5, Slide 30*

Capital Funds may only be used for the modernization or development of public housing and related costs, including the modernization or development of non-dwelling space. The PHA's eligible activities must be included in its approved Capital Fund Five-Year Action Plan, except for activities classified as either emergency or natural disaster activities. Eligible capital costs include, but are not limited to:

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3 In April of 2008, the Department implemented a new development numbering system within the PIC/IMS system in order to mirror the same building to development assignments that PHAs had implemented for Asset Management Projects (AMPs). In certain circumstances, PHAs can continue to request reassignment of buildings from one development to another, subject to HUD approval.

1. **Physical improvements.** Eligible costs include alterations, betterments, additions, replacements, and non-routine maintenance that are necessary to meet the modernization and energy conservation standards prescribed in §968.115. These mandatory standards may be exceeded when a PHA determines that it is necessary or highly desirable for the long-term physical and social viability of the individual development. Development-specific work includes work items that are modest in design and cost, but still blend in with the design and architecture of the surrounding community by including amenities, quality materials, and design and landscaping features that are customary for the locality and culture. The Field Office has the authority to approve non-dwelling space where such space is needed to administer, and is of direct benefit to, the public housing program. If demolition or disposition of all or a portion of a development is proposed, a PHA is required under Section 18 of the Act to submit a request to HUD for approval. The PHA is required to follow the requirements of 24 CFR Part 970. Additional dwelling space may be added to existing units.
2. **Development.** Development refers to activities and related costs to add units to a PHA's public housing inventory, including: construction and acquisition with or without rehabilitation; any and all undertakings necessary for planning, design, financing, land acquisition, demolition, construction, or equipment, including development of public housing units; and buildings, facilities, and/or related appurtenances (i.e., non-dwelling facilities/spaces). Development of mixed-finance projects include the provision of public housing through a regulatory and operating agreement, master contract, individual lease, condominium or cooperative agreement, or equity interest.
3. **Demolition and conversion costs.** Eligible costs include: demolition of dwelling units or non-dwelling facilities, where the demolition is approved by HUD under 24 CFR Part 970, and related costs, such as clearing and grading the site after demolition and subsequent site improvement to benefit the remaining portion of the existing development; and conversion of existing dwelling units to different bedroom sizes or to non-dwelling use. Demolition and disposition activity must be approved by HUD. More information can be found at the Special Application Center website.<sup>4</sup>
4. **Management improvement costs.** Management improvements that are development-specific or PHA-wide in nature are eligible costs where needed to upgrade the operation of the PHA's developments, sustain physical improvements at those developments, or correct management deficiencies. A PHA's ongoing operating expenses, such as funding security guards or direct provision of social services, are ineligible management improvement costs. The regulations limit a PHA to a total of 20 percent of its grant for management improvements unless specifically approved by HUD or the PHA has been designated as both an overall high performer and mod-high performer under the PHMAP.<sup>5</sup>
5. **Economic development costs.** Eligible costs include job training for residents and resident business development activities, for the purpose of carrying out activities related to the modernization-funded management and physical improvements. HUD encourages PHAs, to the greatest extent feasible, to hire residents as trainees, apprentices, or employees to carry out the modernization program under this part, and to contract with resident-owned businesses for modernization work.

<sup>4</sup> [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/centers/sac](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/centers/sac)

<sup>5</sup> PHMAP is a system for rating PHAs that existed prior to the PHAS.

6. **Resident management costs.** Eligible costs include technical assistance to a resident council or resident management corporation (RMC), as defined in Part 964, in order to: determine the feasibility of resident management to carry out management functions for a specific development or developments; train residents in skills directly related to the operations and management of the development(s) for potential employment by the RMC; train RMC board members in community organization, board development, and leadership; and assist in the formation of an RMC.
7. **Resident homeownership costs.** Eligible costs are limited to the study of the feasibility of converting rental to homeownership units and the preparation of an application for conversion to homeownership or sale of units.
8. **Preventive maintenance system.** Eligible costs include the establishment of a preventive maintenance system or improvement of an existing system. A preventive maintenance system must provide for regular inspections of building structures, systems, and units and distinguish between work eligible for operating funds (routine maintenance) and work eligible for modernization funding (non-routine maintenance). Routine maintenance is considered to be an operating cost.
9. **Energy Efficiency.** Allowed costs include: energy audit or updated energy audit (to the extent operating funds are not available and the energy audit is included within a modernization program) and the installation and use of Energy Star appliances whenever energy systems, devices, and appliances are replaced - unless it is not cost-effective to do so.<sup>6 7</sup>
10. **Lead-based paint costs.** Eligible costs include lead-based paint activities, such as insurance coverage and cleanup and disposal.
11. **Administrative costs.** Administrative costs, limited to ten percent of each Capital Fund grant, necessary for the planning, design, implementation, and monitoring of the physical and management improvements are eligible costs, including the following:
  - a) **Salaries.** The salaries of non-technical and technical PHA personnel assigned full-time or part-time to modernization are eligible costs only where the scope and volume of the work are beyond that which could be reasonably expected to be accomplished by such personnel in the performance of their non-modernization duties. A PHA shall properly apportion to the appropriate program budget any direct charges for the salaries of assigned full- or part-time staff.
  - b) **Employee benefit contributions.** PHA contributions to employee benefit plans on behalf of non-technical and technical PHA personnel are eligible costs in direct proportion to the amount of salary charged to the CFP, as appropriate.
  - c) **Preparation of required documents**
  - d) **Resident participation.** Eligible costs include those associated with ensuring the meaningful participation of residents in the development of the Application or the Annual Submission and Comprehensive Plan and the implementation and monitoring of the approved modernization program.
  - e) **Other administrative costs,** such as telephone and facsimile, as specified by HUD

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6 Section 152 of the Energy Policy Act of 2005, 42 USC 15841.

7 PIH 2009-9(HA) Using Energy Star to promote Energy Efficiency in Public Housing



12. **Capital Fund Program Fee**<sup>8</sup>. A fee that may be charged to a Capital Fund grant by the PHA to cover costs associated with oversight and management of the Capital Fund Program by the PHA Central Office Cost Center (COCC). These costs include duties related to general capital planning, preparation of reports, drawing of funds, budgeting, accounting, and procurement of construction and other miscellaneous contracts. The Capital Fund Program Fee is the administrative cost for managing a Capital Fund grant for a PHA subject to asset management. For a PHA that is under asset management, the Capital Fund Program Fee and administrative costs limits are the same. For the Capital Fund Program Fee, a PHA may charge a management fee of up to ten percent of the annual CFP formula grant(s) amount, excluding emergency and disaster grants and also excluding any costs related to lead-based paint or asbestos testing, in-house architectural and engineering work, or other special administrative costs required by state and local law. The Capital Fund Program Fee for development work funded with Capital Fund and RHF grants is three percent of the total project budget, or with HUD approval, up to six percent of the total project budget.
13. **Operations Costs**. A PHA may use Capital Funds for operating costs only if it is included in the annual plan that is approved by HUD. Operations are obligated once the funds have been budgeted and drawn down by the PHA. A PHA with 250 or more units may use no more than 20 percent of its annual Capital Fund grant for activities that are eligible under the Operating Fund. A PHA with fewer than 250 units, which is not designated as “troubled” under PHAS and maintains and operates units in good condition may use up to 100 percent of its annual Capital Fund grant for activities that are eligible under the operating fund.
14. **Audit costs**. Eligible costs are limited to the portion of the audit costs that are attributable to the modernization program.
15. **Architectural/engineering and consultant fees**. Eligible costs include fees for planning, identification of needs, detailed design work, preparation of construction and bid documents and other required documents, LBP professional risk assessments and testing, and inspection of work in progress.
16. **Relocation costs**. Eligible costs include relocation and other assistance for permanent and temporary relocation, as a direct result of rehabilitation, demolition, or acquisition for a modernization-funded activity, where this assistance is required by 49 CFR Part 24 or §968.108.

**No duplication.** Any eligible cost for an activity funded by CFP shall not also be funded by any other HUD program.

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<sup>8</sup> 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. Office of Public and Indian Housing revised April 2007.

## Ineligible Costs

### *Day 5, Slide 31*

Ineligible costs include:

1. Luxury improvements
2. Indirect administrative costs (overhead), as defined in OMB Circular A–87
3. Public housing operating assistance
4. Direct provision of social services, through either force account or contract labor, from FFY 1996 and future FFYs funds, unless otherwise provided by law
5. Other ineligible activities, as specified by HUD
6. Routine maintenance or replacements, and items that are the responsibility of the homebuyer families

## Obligations and Expenditure Requirements

### *Day 5, Slides 32-34*

Section 9(j) of the Act and 24 CFR 905.120 of the regulations require that a PHA obligate 90 percent of a Capital Fund Program grant within two years of the date the funds are made available and expend 100 percent of the grant within four years of the date the funds are made available. Failure to obligate 90 percent of the Capital Fund Program grant within two years of the date that funds are made available will result in penalties and sanctions. The Act and the regulation allow the Assistant Secretary for Public and Indian Housing to approve an extension of the obligation deadline based on limited criteria.

In general, annual capital funds are obligated when a contract or purchase order is signed by all parties. All contracting actions must be made in accordance with HUD procurement regulations at 24 CFR Part 85, state procurement requirements, and the PHA's procurement policy. Procurement files must contain documentation of the procurement action and must be auditable.

For force account work, labor employed directly by the PHA on either a permanent or a temporary basis, funds are obligated when work actually is started.

PHAs are required to retain documentation of obligations and expenditures for audit in accordance with HUD regulations and state requirements. If a PHA is audited and the documentation of obligation and expenditure is not complete or present, the PHA may be at risk of noncompliance with obligation and expenditure requirements and may be subject to penalty.

- For conventional development (i.e., not mixed-finance development) the signing of the development contract (not the developer agreement) constitutes obligation. It is important to note that neither predecessor document (including the developer agreement) nor HUD approval of the development proposal constitute obligation.
- For mixed-finance development, obligation occurs when the deal closes, not when the developer agreement is signed.

- For both traditional development and mixed-finance development, funds can be spent on pre-development costs. For conventional development, up to three percent of the grant can be obligated on pre-development costs without HUD approval. For mixed-finance development, capital funds may not be obligated on pre-development activities without HUD approval.
- Funds budgeted for Operations (BLI 1406) are not obligated until they are vouchered and drawn down from e-LOCCS. Once the funds are drawn down, they are considered obligated and expended.

For PHAs with an approved Capital Fund Financing Program (CFFP), the Capital Fund grants identified in the HUD-approved payment schedule are obligated when the PHA borrows the proceeds and executes the loan documents that obligate the PHA to repay these proceeds. Subsequently, the PHA should report as obligated in LOCCS the amount in each Capital Fund grant that is targeted for debt service pursuant to the final debt service schedule (as defined in the HUD approval letter).

## **EXTENSION OF OBLIGATION END DATE**

### ***Day 5, Slide 35***

The statute and the regulations allow the Secretary and the Deputy Secretary to approve extensions of the obligation deadline for Capital Fund Program grants. This approval authority has been delegated to the Assistant Secretary for Public and Indian Housing. The statute and the regulations establish two distinct sets of justifications, which PHAs can use to request an extension. Extensions of the obligation deadline shall only be justified based on the criteria in Section 9(j) of the Act. Specifically, extensions of the obligation deadline may be granted if failure of the agency to obligate in a timely manner (Section 9(j) (2) (A) (1)) is attributable to:

- Litigation
- Attainment of approvals of the federal government or a state or local government
- Compliance with environmental assessment and abatement requirements
- Relocation of residents
- An event beyond the control of the PHA
- Any other reason established by the Secretary by Notice in the Federal Register

An extension under one of these criteria could be for a length of time deemed reasonable by HUD. In addition to the six criteria identified in the previous paragraph, the statute and the regulations have a second set of criteria which allows the Secretary and the Deputy Secretary to approve extensions of the obligation deadline for Capital Fund grants for an additional period of time not to exceed 12 months (Section 9(j) (2) (C)), based on the following:

- The size of the PHA
- The complexity of the capital program of the PHA
- Any limitations on the ability of the PHA to obligate the amounts allocated for the agency from the Capital Fund in a timely manner as a result of state or local law
- Such other factors as the Secretary determines to be relevant

All requests for extensions of the obligation deadlines, regardless of fiscal year, must be received in Headquarters no later than 45 days prior to the obligation end date for the grant in question. Requests are to be submitted directly to Headquarters for review. A copy of the extension request should be sent to the local Field Office as a reference. The PHA may submit an advanced copy of its request for extension of the obligation deadline by emailing a PDF file to the Director, Office of Capital improvements at [PIHOCl@HUD.gov](mailto:PIHOCl@HUD.gov). The subject line should indicate as follows: Request for the extension of the Obligation End Date for PHA name (housing agency code), for Capital Fund grant number. All PDF files must be followed by a hard copy of the request, which has been signed and dated by the executive director or other responsible party. Submit requests for an extension of the obligation deadline to the following address:

Director  
Office of Capital Improvements  
451 7th Street SW  
Room 4130  
Washington, DC 20410

## **PENALTIES AND SANCTIONS**

### ***Day 5, Slide 36***

PHAs are required to obligate 90 percent of a Capital Fund grant within two years of the date the funds are made available and expend 100 percent of the grant within four years of the date the funds are made available. For a PHA that fails to comply with the obligation requirement, the statute and regulations require that HUD withhold the PHA's next Capital Fund grant until the PHA obligates 90 percent of its past due grant.<sup>9</sup> If the PHA cures its non-compliance, HUD will release the withheld portion of the Capital Fund Grant less any penalty. The penalty of non-compliance will be to reduce the new CFG by 1/12 for every month or portion of the month that the PHA was in non-compliance.

## **Line Of Credit Control System**

### ***Day 5, Slides 37-49***

The Line of Credit Control System (LOCCS) is the system HUD uses to disburse and track the payment of grant funds to grant recipients (i.e., grantees). There are two ways LOCCS can be used, via the Voice Response System, or eLOCCS. The requested payment amount is checked against the grant's available balance in LOCCS to ensure that the request does not exceed the grant's authorized funding limit. Generally, LOCCS allows one request for payment per day on a given grant. Once a request is approved, funds are sent from the U.S. Treasury directly to the grantee's bank account, usually in three business days from the day the request is made. In some cases, the HUD Field Office may impose a mandatory review and approval of all PHA vouchers before payment.

eLOCCS requires PHAs to make monthly reports of obligations and expenditures of open Capital Fund Grants and enable PHAs to draw down approved funds. HUD uses LOCCS to monitor PHA obligation and expenditure progress, compliance with Section 9(j), and adherence to regulatory and statutory cost limitations.

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<sup>9</sup> Section 9(j) of the Act and 24 CFR 905.120

eLOCCS provides drawdown and significantly more query and reporting capability to certain trusted business partners, such as PHAs and Section 8 Performance-Based Contract Administrators. The two primary HUD online systems required to gain access to eLOCCS are Secure System (WASS) and FHA Connection. Both Secure System and FHA Connection serve as Internet gateways between the general public and internal HUD applications. Please note that the eLOCCS User ID and password are separate from the Secure System/FHA Connection User ID and password.

If a PHA is late reporting obligations and expenditures on **any** of its Capital Fund grants, it is locked out of **all** of its Capital Fund grants until it is in compliance with its reporting. If a PHA is less than 90 percent obligated within 60 days of the obligation end date, a red flag is shown next to the PHA.

## **FIVE-YEAR ACTION PLAN AND FUNGIBILITY AMONG THE CAPITAL FUND FORMULA AND PRIOR YEAR CAPITAL FUND FORMULA GRANTS**

### ***Day 5, Slides 38-40***

PHAs must complete and submit the Capital Fund Program Five-Year Action Plan, using Form HUD-50075.2. The Five-Year Action Plan can be prepared based on a fixed five years or on a rolling five years. Plans that are based on a rolling basis must be updated each year. Large capital items must be included in the Five-Year Action Plan.

As defined in 24 CFR 968.305, fungibility is a concept that permits the PHA to substitute any work from the latest approved Five-Year Action Plan to any previously approved annual statement and to move work items among approved modernization budgets without prior HUD approval. A PHA can move obligations among open Capital Fund formula grants as long as all of the following conditions are met:

- The work item to be moved must be listed in the PHA's HUD approved Five-Year Action Plan
- The work item must be in a budget line item that appears in both years' HUD budgets (e.g., a work item in BLI 1460 can only be moved to BLI 1460 of the other year's grant)
- For cases in which fungibility involves a new work item, any request for an amendment of the Five-Year Action Plan to include the work item must be submitted to the Field Office prior to the obligation deadline
- The obligation of the work item to be moved must occur during the obligation time frame of the grant to which the work item is to be moved
- The Capital Fund Program grant is an open grant i.e., the PHA does not have a pre-audit date
- Any other questions regarding fungibility should be directed to Headquarters to determine eligibility

## **Submission Requirements for Qualified PHAs**

### ***Day 5, Slide 41***

In order to have access to their Capital Fund grant, Qualified PHAs must submit three original signed and dated ACC Amendments for each Capital Fund Grant(s), along with the Capital Fund Annual Statement Part I, Summary and Part II, Supporting Pages, to the local HUD Field Office.

PHAs will use form HUD-50075.1, Capital Fund Program Annual Statement/Performance and Evaluation Report, for the following purposes:

- a) To submit the initial budget for a new grant or Capital Fund Financing Program (CFFP) proposal
- b) To report progress on any open grant previously funded or CFFP proposal
- c) To record a budget revision on previously approved open grants or CFFP proposals

Parts I and II of the form HUD-50075.1 are to be completed for all open Capital Fund Grants, including Replacement Housing Factor (RHF) grants, as well as Capital Fund Financing Program (CFFP) transactions. Part III has been modified to provide information on CFFP and is to be completed for proposed and approved CFFP proposals. PHAs that do not have an approved or pending CFFP proposal will no longer be required to submit Part III. PHAs must continue to submit Capital Fund Program Annual Statement/Performance and Evaluation Reports (form HUD-50075.1) annually, regardless of whether or not there is a change.

Qualified PHAs must submit the following items, along with the fiscal year's ACC Amendment 1, to the local Field Office:

- Annual Statement Parts I & II
- Capital Fund Five-Year Action Plan
- Amendments to the Capital Fund Five-Year Action Plan, if any
- Performance and Evaluation Report
- Certification of Payments - Form HUD-50071
- Copy of the Civil Rights Certification - Form HUD-50077-CR

The information in the Annual Statement is required for the HUD Field Office staff to enter the PHA's budget into the Line of Credit Control System (LOCCS) and to monitor compliance with HUD's requirements.

The Annual Statement Parts I & II for Qualified PHAs shall be approved by the PHA's board of commissioners and signed and dated by the executive director before submission to HUD. HUD approval of the annual statement for Qualified PHAs is no longer required. However, the HUD Field Office is required to verify that the information and/or forms submitted by the PHA are complete and that the submission is on the correct OMB-approved form. In addition, the Field Office will review the Annual Statement to determine whether the PHA is in compliance with appropriate regulatory and statutory limitations for the Capital Fund Program or other federal requirements, such as the environmental review (Part 50 or Part 58), Section 504 disability requirements, wage rates, and relocation. Qualified PHAs are required to revise and/or correct any information that is not in compliance, and HUD has the authority to impose administrative sanctions until the appropriate revisions are made.

Qualified PHAs that are in compliance with Section 9(j) of the Act and 24 CFR 905.120 of the regulations are required to prepare a Performance and Evaluation Report for all open grants and keep it on file at the PHA.

Qualified PHAs that are not in compliance with Section 9(j) of the Act and 24 CFR 905.120 of the regulations are required to prepare and submit the Performance and Evaluation Report for all open grants at the time the ACC Amendment is submitted to the Field Office.

All work items contained in the Annual Statement must be included in the HUD-approved Capital Fund Five-Year Action Plan. Qualified PHAs that are proposing to undertake new work items that are not in an approved Capital Fund Five-Year Action Plan are required to revise/amend their Five-Year Action Plan. Section 9(d) (1) of the Act establishes the Department's authority to collect information necessary to implement and monitor the Capital Fund Program.

## **Physical Needs Assessment and Energy Audit Requirements**

### ***Day 5, Slides 42-45***

The Office of Public and Indian Housing is developing a Physical Needs Assessment (PNA) tool for all PHAs, which will assist PHAs in assessing the needs of its PHA inventory and plan for the use of its Capital Fund grants. The current regulations only require large PHAs to complete a PNA.

The primary goals of the PNA include:

1. Enabling HUD to measure the impact of annual Capital Fund appropriations on the physical needs of the public housing inventory
2. Evolving the management practices of PHAs toward project-based capital planning
3. Furthering the objectives of 2005 Energy Policy Act
4. Producing data on green activities for the Capital Fund in support of HUD's High Priority Performance Goal to create energy-efficient housing
5. Enabling PHAs to better assess the position of their portfolios to take advantage of potential opportunities

In the past, as directed by Congress, HUD has conducted a statistical sampling of PHAs to estimate the accrual and backlog needs of PHAs. As an alternative to a capital needs study, the PNA will enable HUD to aggregate the needs data generated by PHAs to determine a national needs number at any point in time that will include every project in the public housing portfolio. The national needs number will be updated annually to reflect needs addressed with Capital Fund appropriations or other sources and to reflect new needs identified by PHAs through a PNA performed every five years.

The new PNA tool will allow PHAs to assess the life cycle needs of their public housing portfolio for a term of 20 years. Project-based PNAs, combined with HUD's new focus on the project-based Asset Management Program, move PHAs closer to standard industry.

The 2005 Energy Policy Act amended the Capital Fund section of the U.S. Housing Act of 1937 to encourage the integration of "utility management and capital planning to maximize energy conservation and efficiency measures." HUD is issuing a PNA rule to require synchronization of Energy Audits and PNAs and to require measurement of the cost effectiveness of energy conservation measures. The PNA tool will aggregate this information and, for the first time, provide HUD with data to measure the cost



effectiveness of replacing building systems with green components at the end of their useful life, as well as the cost effectiveness of early replacement of building components.

All PHAs are required to complete an energy audit for each PHA-owned project under management at least once every five years. Energy audits analyze all of the energy conservation measures, as well as the payback period for these measures, that are pertinent to the type of buildings and equipment operated by the PHA.

Within the funds available to a PHA, energy conservation measures should be accomplished with the shortest payback periods funded first. A PHA may make adjustments to this funding order because of insufficient funds to accomplish high-cost energy conservation measures (ECM) or where an ECM with a longer payback period can be more efficiently installed in conjunction with other planned modernization. A PHA may not install individual utility meters that measure the energy or fuel used for space heating in dwelling units that need substantial weatherization, or when installation of meters would result in economic hardship for residents. In these cases, the ECMs related to weatherization shall be accomplished before the installation of individual utility meters.

## **Limit on New Construction**

### *Day 5, Slide 46*

The Quality Housing and Work Responsibility Act of 1998 (QHWRA) imposes a statutory limit on new construction of public housing (Faircloth limit) in Section 9(g) (3) (A) of the United States Housing Act of 1937 (Housing Act). The Housing Act states that PHAs cannot use the Capital Fund or the Operating Fund to construct any public housing unit if the construction would result in a net increase from the number of public housing units owned, assisted, or operated by the PHA on October 1, 1999, including any public housing units demolished as part of any revitalization effort.

The Housing Act permits two exceptions. First, Section 9(g) (3) (B) of the Housing Act states that a PHA may use amounts allocated from the Capital Fund or the Operating Fund for the construction and operation of units that exceed the Faircloth limit, as long as the Capital and Operating Fund formulas do not provide increased funding for the construction, rehabilitation, or operation of the additional units.

Second, the Housing Act states that, subject to reasonable limits set by the Secretary, a PHA may construct new units in excess of its Faircloth limit and receive additional funding for such units under the Capital and Operating Fund formulas, if the PHA meets the following two conditions found in Section 9(g) (3) (C) of the Housing Act: (1) the units are part of a mixed-finance project, or otherwise leverage significant additional private or public investments; and (2) the estimated cost of the useful life of the project is less than the estimated cost of providing tenant-based assistance under Section 8(o) of the Act for the same period.

In addition, an exception to the limit on new construction of public housing is found in the American Recovery and Reinvestment Act of 2009 (Recovery Act). The Recovery Act contained a provision that permitted PHAs to construct public housing units above their Faircloth limit when the construction of those units is funded with Recovery Act funds only, and not traditional Capital Funds or HOPE VI funds. Therefore, the prohibition which restricts the construction and funding of Operating and Capital assistance for public housing units that exceed the Faircloth limit does not apply to units developed with only Recovery Act funds and no other public housing funding.



The Department uses data the PHAs have submitted to the Department in the Inventory Management System/Public Housing Information Center (IMS/PIC) system as its source of information for public housing units. Every fiscal year, the Department issues specific directives to PHAs to accurately report all units in their inventory for purposes of providing the funding for Operating Fund and Capital Fund assistance. Public Housing Field Office staff monitor all information submitted by PHAs in the IMS/PIC Development Sub-Module to ensure its accuracy in reflecting actions, such as demolition/disposition, deprogrammed units, vacancy exemptions, and special use units. Check the Office of Capital Improvements website for lists of each PHA's Faircloth limit.

Since annual Congressional appropriations of Capital and Operating Funds are not adjusted proportionally (i.e., increased) as a result of the addition of public housing units, the increase of units above the Faircloth limit for a particular PHA results in the reduction of Capital and Operating Funds to be provided proportionally for all other PHAs in the national public housing inventory. For this reason, at this time, the Department will not be approving development proposals that propose to construct or acquire public housing units that exceed the Faircloth limit beyond those in place at a PHA's inventory as of October 1, 1999.

This prohibition applies even if a PHA elects to not add the newly built or acquired public housing units to the Capital and Operating Fund formulas once they are under management. This prohibition also applies if the additional units are part of a mixed-finance project, or otherwise leverage significant additional private or public investments, and the estimated cost of the useful life of the project is less than the estimated cost of providing tenant-based assistance for the same period. For additional information, please see PIH 2011-69 (HA).<sup>10</sup>

## **Replacement Housing Factor for Development**

### ***Day 5, Slide 47***

The Capital Fund Program regulation at 24 CFR 905.10(k) provides that a PHA may receive RHF grants for public housing demolished or disposed of with HUD approval for the purpose of development of replacement housing. All replacement housing must be undertaken in accordance with public housing development regulations found in 24 CFR Part 941.

A PHA is eligible for RHF funding if the PHA did not receive funding for public housing from public housing development, Major Reconstruction of Obsolete Public Housing (MROP), HOPE VI, or other programs that would otherwise provide replacement housing. Public housing units removed from the inventory for homeownership, eminent domain, or unit conversion reconfiguration are not eligible for RHF grants. Eligible PHAs automatically receive the first five years (first increment) upon removal from PIC of the units approved for demolition or disposition. PHAs are eligible for a second five years of funding (i.e., second increment), if they meet the regulatory requirements for eligibility of a second increment.

RHF grants are a type of Capital Fund Program grant and therefore are subject to all relevant federal regulations, including the environmental review requirements and to the obligation and expenditure requirements of Section 9(j) of the Act and 24 CFR 905.120.

---

<sup>10</sup> Prohibition on Exceeding Statutory Limitation of the Number of Public Housing Units.

PHAs may elect to accumulate two, three, four, or five consecutive years of RHF grants in order to have sufficient funds to develop (e.g., new development or acquisition) replacement housing. In order to accumulate funds, a PHA must submit an RHF plan to the Field Office for approval. In this instance, the obligation end date for all of the RHF grants being accumulated will be established based on the number of year's accumulation.

If the PHA is not planning to accumulate its first increment RHF grants prior to obligating it for development activity, the PHA is not required to submit an RHF plan for HUD approval. The obligation and expenditure dates for RHF grants that are not being accumulated are two years for the obligation of 90 percent of the grant and four years for full expenditure in the same way the deadlines are set for the PHA's formula Capital Fund grants.

## **RHF PLAN**

### ***Day 5, Slides 48-51***

1. First Increment RHF Plan. The RHF plan must specify the following:
  - a) The intention to accumulate RHF grants for up to five consecutive years and the establishment of a later obligation deadline, giving the reason(s) why the PHA needs to do so (e.g., because the funds will be used in a multi-phase development)
  - b) The number of years of grants the PHA is accumulating (up to five years)
  - c) The grants, including estimated amounts, by fiscal year (and grant number if known) the PHA is accumulating, including any expected future years of funding
  - d) A description of how the PHA is using the funds consistent with the terms of RHF (i.e., the development of public housing ACC units, or the acquisition of land and/or buildings for the purpose of developing public housing ACC units, in accordance with 24 CFR Part 941)

The PHA must revise its RHF plan if the RHF funding ends earlier than anticipated.

2. Second Increment RHF Plan. If the PHA fails to submit a second increment RHF plan, the funds for the entire five years (i.e., the second increment) will not be awarded, and the PHA is no longer eligible for any associated future RHF funds associated with that particular demolition and/or disposition application. The ACC amendment for the current year's second increment RHF grant will not be executed, the grant will be de-reserved, and the affected units will become ineligible for further RHF funding.

A PHA must submit an RHF Plan for its second increment of RHF funding. However, a PHA may use first and second increment funding in the same development. The second increment RHF plan must be submitted in accordance with the schedule posted on the Capital Fund webpage.

A second increment RHF plan must specify:

- a) The intention to accumulate RHF grants for up to five consecutive years and the establishment of a later obligation deadline, giving the reason(s) why the PHA needs to do so (e.g., because the funds will be used in a multi-phase development)
- b) The number of years of grants the PHA is accumulating (up to five years)

- c) The grants, including estimated amounts, by fiscal year (and grant number if known) the PHA is accumulating, including any expected future years of funding
- d) Specification that the PHA is using the funds to develop public housing units
- e) A statement confirming that the Capital Fund Five-Year Action Plan and Capital Fund Annual Statement have been approved by the local Field Office
- f) A statement confirming that the PHA's annual plan, if applicable, has been approved by the local Field Office
- g) A statement affirming compliance with obligation and expenditure deadlines for all Capital Fund grants
- h) Proof of firm financial commitment(s) for substantial additional funds, other than public housing funds, equaling at least one-third of the total RHF funds it will receive in the second five-year increment. If the PHA does not demonstrate a firm commitment at the time of the second increment RHF plan submission, the local HUD Field Office will issue an approval contingent upon securing the funds prior to the submission of the development proposal, and will suspend the second increment grants until such a time that the PHA demonstrates the financial commitment through submission of a revised plan. These funds must be firmly committed prior to the execution of the (mixed finance) ACC Amendment.

The PHA must revise its RHF plan if any factor that affects its RHF funding or causes RHF funding to end earlier than anticipated. If the RHF funding ends earlier than expected, the obligation end date will be affected because not as many years of funding will be accumulated.

In accordance with HUD regulations at 24 CFR 905.10(i)(2)(ii), as a prior condition of a PHA's receipt of the second increment of RHF funding, a PHA must obtain a commitment of substantial additional funds, other than public housing funds, for replacement housing, as determined by HUD. This standard is met when a PHA leverages an amount of non-public housing funds equal to at least one-third of the total RHF funds in the second five-year increment.

HUD realizes that at the beginning the development process, the PHA may not have a final determination of leverage. A PHA must provide as much information as possible regarding its plans to leverage. PHAs must use funds other than public housing funds for leveraging. Examples include the following: Community Development Block Grant (CDBG) funds, tax credits, state or local grants, private mortgage-secured loans and other debt, donations and contributions, and housing trust funds.

In addition, leveraging may include funds borrowed by the PHA through such sources as bank loans and bond issuances (through the Capital Fund Financing Program (CFFP)) that are to be repaid with RHF funds. When borrowing funds, a PHA may pledge up to 100 percent of the RHF funds towards payment of debt service. For reference, HUD has typically permitted PHAs to pledge up to one-third of their annual Capital Fund grants for financing. Headquarters must approve any pledge of RHF funds or other Capital Funds by a PHA.

For a first or second increment RHF plan, a PHA cannot:

- Include a grant for accumulation that is already included in another approved RHF plan
- Accumulate more than five consecutive federal fiscal years
- Include first and second increment grants in one accumulation

Since PHAs do not automatically receive second increment RHF and PHAs must meet certain regulatory requirements to be eligible for second increment, the first increment RHF plans can only include first increment grants and second increment RHF plans can only include second increment grants. However, a PHA may choose to use first and second increment funding in the same development.

Additional information on RHF can be found in PIH Notice 2010-21 ***Processing Information for the Submission of Replacement Housing Factor (RHF) Plans*** and at:

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/programs/ph/capfund/rhf](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/capfund/rhf)

## **Emergency and Natural Disaster Grants**

***Day 5, Slides 52-53***

### **GENERAL DESCRIPTION OF THE SET-ASIDE AND APPLICATION PROCESS**

PHAs are required by the Capital Fund Annual Contributions Contract (ACC) to carry various types of insurance to protect them from loss. In most cases, insurance coverage will be the primary source of funding PHAs use to pay repair or replacement costs associated with emergencies and natural disasters. Where the Department's Annual Appropriations Act establishes a set-aside from the Capital Fund appropriation for emergencies and natural disasters, the Department has procedures in place to award funding. HUD may require a PHA to use any other source that may legally be available, including unobligated Capital Funds, prior to providing emergency or natural disaster funds from the set-aside.

### **REQUESTING FUNDS**

To obtain emergency or natural disaster funds, a PHA must submit a request, in a form and manner prescribed by HUD, which describes conditions and the date(s) of the incidence, and demonstrates that without the requested funds from the set-aside, the PHA does not have adequate funds available to correct the conditions which present an immediate threat to the health or safety of the residents. The PHA must also provide an independent assessment of the extent of and the cost to correct the condition. The assessment must be specific as to the damage and costs associated with the emergency or natural disaster. In the case of a natural disaster, a PHA may request a preliminary grant only for costs necessary for immediate preservation of the property and safety of the residents. HUD shall approve the requests for emergency and natural disaster funding subject to the availability of funds in the set-aside in the order in which requests are received and are determined approvable. The Department reviews and examines each request on a case-by-case basis.

### **HUD DEFINITIONS OF EMERGENCY AND NATURAL DISASTER**

HUD's definition of an emergency is an unforeseen or unpreventable event or occurrence that poses an immediate threat to the health and safety of the residents that must be corrected within one year of funding. A natural disaster (e.g., hurricane or tornado), for purposes of the Capital Fund reserve, refers only to non-Presidentially declared disasters. Federal Emergency Management Agency (FEMA) is the first line of funding for all Presidentialy declared disasters.

Additional information on Capital Fund Emergency and Disaster Grants can be found at:

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/programs/ph/capfund/emfunding](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/capfund/emfunding)

## Grant Closeout

### *Day 5, Slides 54*

Closing out a grant is an important function for the PHA. The closeout process is comprised of pre-audit and post-audit activities. Closeout means the process by which HUD determines that all applicable administrative actions and all required work of the award have been completed by the recipient and HUD. Closeout is the endpoint of the Capital Fund grant lifecycle and effectively means the end of monitoring efforts by Capital Fund headquarters staff.

The Department is in the process of updating the audit process for PHAs. The pending changes are described at the end of this section.

### PRE-AUDIT

Upon expenditure by the PHA of all funds, or termination by HUD of the activities funded in a modernization program, a PHA must submit either Form HUD-53001, Actual Modernization Cost Certificate (AMCC) or an Form HUD - 52427, Actual Development Cost Certificate (ADCC), along with the final Annual Statement/Performance and Evaluation Report (HUD Form 50075.1) to the HUD Field Office for review and approval. The Field Office enters the pre-audit end date into LOCCS. The pre-audit is initiated by the PHA; once the PHA enters the pre-audit stage, it no longer needs to report on obligations and expenditures for the grant each month in LOCCS.

### AUDIT

The audit must follow the guidelines prescribed in 24 CFR Part 44, Non-Federal Government Audit Requirements. If the pre-audit or post-audit AMCC indicates that there are excess funds, a PHA must immediately remit the excess funds as directed by HUD or they will automatically be recaptured by HUD. If the pre-audit or post-audit AMCC discloses unauthorized or ineligible expenditures, a PHA must immediately take such corrective actions as HUD may direct.

### POST-AUDIT

After the audit, the post-audit end date—the date on which the Field Office approved the AMCC after audit (in accordance with Outcome A, B, or C, described below)—is entered into LOCCS and program closeout is recorded. There are three possible outcomes of the audit:

- **Outcome A:** When HUD records (LOCCS-Web) and PHA records (audit) agree as to funds obligated, expended, and disbursed, the post-audit end date is immediately entered into LOCCS and the grant is recorded as closed out.
- **Outcome B:** When the PHA owes funds to HUD (i.e., the amount disbursed by LOCCS is greater than the amount obligated and expended by the PHA per the audit), HUD establishes an accounts receivable for the PHA to return the necessary funds. Once HUD receives the funds owed, HUD will enter the post-audit end date.
- **Outcome C:** When HUD owes funds to the PHA (i.e., the amount disbursed by LOCCS/VRS is less than the amount obligated and expended by the PHA per the audit), HUD will enter the post-audit end date and the amount owed by HUD. LOCCS will automatically adjust the obligation/

expenditure information upward by the amount that HUD owes and generate a voucher for that amount. However, the voucher will not be paid until the HUD Field Office approves the voucher in LOCCS.

***Note: After the post-audit end date is entered, all undisbursed balances will be automatically recaptured through LOCCS.***

## Class Activity

See Appendix 3: Class Activity on [page 65](#).

The case study of ABC Public Housing Authority (ABCHA) will help you apply what you learned. For the activity, focus on the OED issues of the PHA (starting on [page 67](#)).

## Module 2 Knowledge Check

*This knowledge check should be completed at the end of Module 2. Participants should circle their chosen answer. Leaders should review the correct answer using the following answer key once participants complete the knowledge check.*

1. The Capital Fund is a:
  - a) Competitive grant
  - b) Formula grant
2. Unit data for the determination of Capital Funds comes from which HUD system?
  - a) VMS
  - b) FDS
  - c) LOCCS
  - d) IMS/PIC
3. If a PHA fails to certify unit data by the HUD-established deadline, HUD will issue the ACC Amendment reflecting the grant amount with uncertified data, but the grant will be suspended pending receipt of certification.
  - a) True
  - b) False
4. In determining yearly Capital Fund grant amounts, both the number of standing units and removed units are used by HUD.
  - a) True
  - b) False
5. All of the following are eligible CFP physical improvement costs except:
  - a) Alterations
  - b) Betterments
  - c) Additions
  - d) Replacements
  - e) Routine maintenance
6. Although CFP funds may be used for demolition activities, all demolition activity must first be approved by the SAC.
  - a) True
  - b) False
7. Examples of ineligible CFP costs include all the following except:
  - a) Luxury improvements
  - b) Indirect administrative costs
  - c) Audit costs
  - d) Direct provision of social services

8. If a PHA is late reporting obligations and expenditures on **any** of its Capital Fund grants, it is locked out for fund drawdowns of **all** of its Capital Fund grants until it is in compliance with its reporting.
  - a) True
  - b) False
9. For a PHA that fails to comply with the obligation requirement, HUD will recapture any amounts of current CFP grants that were not obligated within the time frame required.
  - a) True
  - b) False
10. RHF funding is provided to PHAs for:
  - a) Adding incremental public housing units to the PHA's portfolio
  - b) Replacing public housing units that were demolished or disposed of
  - c) Making capital improvements to existing public housing units
  - d) Both a and b
11. Before HUD will grant a request by a PHA for funds from the CFP emergency or natural disaster set-aside, if available, HUD may require:
  - a) That PHAs first use any other source that may legally be available
  - b) The use of any unobligated Capital Funds
  - c) Both a and b
12. A natural disaster, for purposes of the Capital Fund Emergency and Natural Disaster Set-Aside, is defined as:
  - a) Presidentially declared disasters
  - b) Non-Presidentially declared disasters

**Stop: Do not proceed until the training Leader prompts you to turn the page.**



## Module 2 Knowledge Check

### Answer Key

Correct answers are indicated in **bold**.

1. The Capital Fund is a:
  - a) Competitive grant
  - b) **Formula grant**
2. Unit data for the determination of Capital Funds comes from which HUD system?
  - a) VMS
  - b) FDS
  - c) LOCCS
  - d) **IMS/PIC**
3. If a PHA fails to certify unit data by the HUD-established deadline, HUD will issue the ACC Amendment reflecting the grant amount with uncertified data, but the grant will be suspended pending receipt of certification.
  - a) **True**
  - b) False
4. In determining yearly Capital Fund grant amounts, both the number of standing units and removed units are used by HUD.
  - a) **True**
  - b) False
5. All of the following are eligible CFP physical improvement costs except:
  - a) Alterations
  - b) Betterments
  - c) Additions
  - d) Replacements
  - e) **Routine maintenance**
6. Although CFP funds may be used for demolition activities, all demolition activity must first be approved by the SAC.
  - a) **True**
  - b) False
7. Examples of ineligible CFP costs include all the following except:
  - a) Luxury improvements
  - b) Indirect administrative costs
  - c) **Audit costs**
  - d) Direct provision of social services

8. If a PHA is late reporting obligations and expenditures on **any** of its Capital Fund grants, it is locked out for fund drawdowns of **all** of its Capital Fund grants until it is in compliance with its reporting.
  - a) **True**
  - b) False
9. For a PHA that fails to comply with the obligation requirement, HUD will recapture any amounts of current CFP grants that were not obligated within the time frame required.
  - a) True
  - b) **False**
10. RHF funding is provided to PHAs for:
  - a) Adding incremental public housing units to the PHA's portfolio
  - b) **Replacing public housing units that were demolished or disposed of**
  - c) Making capital improvements to existing public housing units
  - d) Both a and b
11. Before HUD will grant a request by a PHA for funds from the CFP emergency or natural disaster set-aside, if available, HUD may require:
  - a) That PHAs first use any other source that may legally be available
  - b) The use of any unobligated Capital Funds
  - c) **Both a and b**
12. A natural disaster, for purposes of the Capital Fund Emergency and Natural Disaster Set-Aside, is defined as:
  - a) Presidentially declared disasters
  - b) **Non-Presidentially declared disasters**

## 05 Module 3: Alternative Finance Programs (Capital Fund Financing Program, Operating Fund Finance Program, & the Public Housing Mortgage Program)

*Note: Slides 57-69 correspond with this module.*

### Capital Fund Finance Program

*Day 5, Slides 58-59*

Under the Capital Fund Financing Program (CFFP), a PHA may borrow private capital to make improvements and pledge, subject to the availability of appropriations, a portion of its future year annual Capital Funds to make debt service payments for either a bond or conventional bank loan transaction. For further information, please see the website:

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/programs/ph/capfund/cffp](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/capfund/cffp)

The loans or bonds are obligations of the PHA. HUD does not guarantee or insure these loans or bonds. The PHA obligation is subject to the availability of appropriations by Congress and compliance with statutory and regulatory requirements. Written HUD approval is required for all Capital Fund financing transactions which pledge, encumber, or otherwise provide a security interest in public housing assets or other property, including Capital Funds, and use Capital Funds for the payment of debt service or other financing costs. In order to receive HUD approval, a PHA must submit a financing proposal that includes a term sheet, financial documents, and a justification for the use of Capital Funds for financing.

General guidelines for the CFFP program include:

- Approval: PHAs must request approval from the Director, Office of Capital Improvements.
- CF Pledges: Generally, no more than 33 percent of the PHA's current annual CF grant adjusted for any proposed or planned demolition or disposition or other activity that would result in a reduction of the PHA units count.
- Public Housing Requirements: Since the proceeds from a CFFP transaction are generated via the pledge and use of Capital Funds, HUD considers CFFP Proceeds to be, for all intents and purposes, Capital Funds, including all inherent statutory and regulatory requirements.
- Public Housing Assessment System (PHAS) Designation: Generally a PHA should be designated at least a Standard Performer under PHAS (24 CFR 902) and at least a standard performer on the financial and management indicators.

## PROPOSAL CONTENTS

### *Day 5, Slides 60-63*

The PHA must submit a complete set of the legal documents that the PHA will execute in connection with the CFFP transaction. The legal documents are to be submitted to HUD only after they have been negotiated and agreed upon by the parties to the transaction. HUD will not review preliminary documents that are still under negotiation.

The PHA will submit modernization DOTs for all of their non-mixed-finance public housing projects and a certification from their counsel that these represent all of their public housing properties, and that in each instance the DOTs are recorded in first position and will be effective for the term of the financing. As noted in the streamlining section of this page, DOTs are not required to be submitted for mixed-finance projects. The proposal should include:

1. Cover letter
2. Term sheet, table of contents, and contact information
3. Financing schedules:
  - a) Debt service schedule
  - b) Sources and uses schedule (MS-Excel, 20 KB)
  - c) Portfolio schedule (including projections for RHF as appropriate): HUD generates per unit funding schedules and other Capital Fund reports that can be used to complete the portfolio schedule.
4. Other required submissions:
  - a) Capital Fund Financing budget detailing the use of the CFFP loan proceeds. A copy of the following PHA plan information: 1) an annual statement showing the use of the CFFP proceeds; and 2) an annual statement and Five-Year Action Plan (Capital Fund Program tables) showing the use of Capital Fund Program (CFP) grant amounts and/or Replacement Housing Factor (RHF) grant amounts for debt service payments.
  - b) Independent third-party management assessment (MS-Word, 69 KB)
  - c) Independent third-party fairness opinion (MS-Word, 27 KB)
  - d) Physical needs assessment (MS-Excel 2.7 MB) covering the agency's entire public housing portfolio, for the term of the financing, taking into consideration the life cycle replacement costs of all major building systems
5. Financing documents
6. Declaration of Trust documents
7. Board Resolution, Counsel's Opinion, and Depository Agreement

## **STREAMLINING**

### ***Day 5, Slide 64***

PHAs that:

- Borrow less than \$2 million cumulatively and are designated as Standard Performers
- Borrow less than \$20 million cumulatively and are designated as High Performers
- Propose to use CFFP proceeds as part of a mixed-finance transaction

Are no longer required to submit the below noted items as part of their CFFP proposal:

1. Fairness Opinion
2. Management Assessment
3. Assurances in regard to construction management and financial controls

If HUD determines that interest or other costs do not appear to meet industry norms, or other aspects of the proposal present atypical risks, HUD retains discretion to require assessments, opinions, or controls, or return the proposal.

The following items have also been streamlined:

- Physical needs assessments are no longer required of PHAs that use CFFP proceeds as part of a mixed-finance proposal, and for PHAs that size their financing based upon only projected RHF.
- PHAs that size their CFFP based only on RHF, and those that propose to utilize the CFFP as part of a mixed-finance modernization transaction are not required to:
  - Submit a CFFP budget as part of the CFFP proposal.
  - Submit quarterly reports to the Field Office.
- DOTs are not required to be submitted for any mixed-finance projects.

## **ROLE OF THE FIELD OFFICE PRIOR TO CFFP PROPOSAL APPROVAL**

### ***Day 5, Slide 65***

As part of the review process for CFFP proposals, HUD HQ, through the Office of Capital Improvements (OCI), will request certain reviews and certifications from the Field Office. OCI's request to the Field Office should occur upon receipt of a CFFP proposal. The reviews and certifications are as follows:

1. Proposal confirmation: the Field Office should confirm that it received a copy of the CFFP proposal.
2. Receipt and review of the Declaration of Trust (DOT) and/or Declaration of Restrictive Covenant (DORC): confirmation that an effective Declaration(s) of Trust is recorded in first position on all of the public housing properties in the PHA's portfolio and the DOTs will be effective for the term of the financing.
3. Review of the annual statement and Five-Year Action Plan

4. TDC requirements: Confirmation that each project funded with CFFP proceeds meets TDC
5. Statement of PHA Capacity: Confirmation that the Field Office concurs that the PHA has the management capacity to execute the transaction and to meet the schedule for the use of funds.
6. Field Office support: Confirmation as to whether or not the Field Office supports the proposed transaction. Field Offices may conduct site visits at their discretion.

ACC Information: the date and number of the Consolidated Annual Contributions Contract (ACC), and reservation of an amendment number for the CFF Amendment.

## **Role of the Field Office Post-Approval**

*Day 5, Slide 66*

### **ACC EXECUTION**

The housing agency will execute three copies of the Capital Fund Finance ACC amendment when it receives its approval package. In addition, it is responsible for:

- **Monitoring:** PHAs submit performance and evaluation reports reflecting the use of the CFFP proceeds to the Field Office on a quarterly basis. PHAs that utilize their CFFP proceeds as part of a mixed-finance transaction and PHAs that size their financing based upon RHF in their CFFP transactions are not required to submit quarterly reports.
- **HUD approvals:** Changes to the scope of work for an approved CFFP requires Field Office approval for:
  1. A change in the type of activity being financed
  2. A change in the project being modernized/developed with the proceeds
  3. A reduction of 20 percent or more in the number of public housing units being impacted
  4. An increase of 20 percent or more of the cost of non-dwelling space

## **Operating Fund Finance Program**

*Day 5, Slide 67*

Under the Operating Fund Financing Program (OFFP), PHAs are permitted to borrow private capital to finance development and modernization of public housing. Under this program, a PHA may use a portion of its Operating Fund reserve balances to collateralize financings and pay debt service and customary financing costs where the financing is used for public housing development or modernization (including public housing mixed-finance developments). A notice delineating the requirements on this program should be executed soon. All applications for the use of this program should be addressed to the Deputy Assistant Secretary, Office of Public Housing Investments.

## Public Housing Mortgage Program

*Day 5, Slide, 68*

Through restrictions in the Annual Contributions Contract and the Declaration of Trust, PHAs are precluded from establishing a mortgage or security interest in any public housing property or asset without the approval of HUD. Section 516 of the Quality Housing and Work Responsibility Act of 1998 (QHWRA) added Section 30, Public Housing Mortgages and Security Interest, to the United States Housing Act of 1937, which authorizes PHAs, subject to HUD approval, to pledge or mortgage public housing projects or other property of the PHA. For this program, PHAs would apply to HUD under the Public Housing Mortgage Program (PHMP). An example of this type of transaction would be PHAs applying for grant funds in the Affordable Housing Program of the Federal Home Loan Bank. For further information, please see the website:

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/programs/ph/capfund/phmp](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/capfund/phmp)

## Module 3 Knowledge Check

*This knowledge check should be completed at the end of Module 3. Participants should circle their chosen answer. Leaders should review the correct answer using the following answer key once participants complete the knowledge check.*

1. A portion of CFP funds may be used to borrow private capital to make capital improvements to public housing properties. The maximum amount of CFP funds that may be pledged for debt service is:
  - a) 45 percent
  - b) 33 percent
  - c) 50 percent
  - d) PHAs are not allowed to pledge CFP funds for debt service
2. Written HUD approval is not required for all CFP financing transactions which pledge, encumber, or otherwise provide a security interest in public housing assets or other property as long as the amount pledged does not exceed 50 percent of the yearly grant amounts.
  - a) True
  - b) False
3. PHAs who have utilized CFP funds for debt service payments are required to submit performance and evaluation reports on a:
  - a) Monthly basis
  - b) Yearly basis
  - c) Quarterly basis
  - d) No special reporting is required
4. The Operating Fund Finance Program allows a PHA to utilize public housing operating reserves to fund debt service payments secured by public housing assets.
  - a) True
  - b) False
5. The Public Housing Mortgage Program allows a PHA to obtain debt financing for project capital improvements by pledging or mortgaging public housing projects.
  - c) True
  - a) False

**Stop: Do not proceed until the training Leader prompts you to turn the page.**



## Module 3 Knowledge Check

### Answer Key

Correct answers are indicated in **bold**.

1. A portion of CFP funds may be used to borrow private capital to make capital improvements to public housing properties. The maximum amount of CFP funds that may be pledged for debt service is:
  - a) 45 percent
  - b) **33 percent**
  - c) 50 percent
  - d) PHAs are not allowed to pledge CFP funds for debt service
2. Written HUD approval is not required for all CFP financing transactions which pledge, encumber, or otherwise provide a security interest in public housing assets or other property as long as the amount pledged does not exceed 50 percent of the yearly grant amounts.
  - a) True
  - b) **False**
3. PHAs who have utilized CFP funds for debt service payments are required to submit performance and evaluation reports on a:
  - a) Monthly basis
  - b) Yearly basis
  - c) **Quarterly basis**
  - d) No special reporting is required
4. The Operating Fund Finance Program allows a PHA to utilize public housing operating reserves to fund debt service payments secured by public housing assets.
  - a) **True**
  - b) False
5. The Public Housing Mortgage Program allows a PHA to obtain debt financing for project capital improvements by pledging or mortgaging public housing projects.
  - c) **True**
  - a) False

# 06 Module 4: Public Housing Development

*Note: Slides 70-76 correspond with this module.*

## Overview

*Day 5, Slide 70*

A PHA may use capital and other public housing funds to develop public housing units. PHAs may develop public housing through the construction of new units or through the acquisition of existing units, which may or may not need rehabilitation. Development of public housing must be undertaken in accordance with all public housing development regulations, currently found at 24 CFR Part 941.

## Methods of Development

*Day 5, Slide 71*

A PHA may use any generally accepted method to develop public housing units, including, but not limited to:

1. **Conventional Development:** This method refers to the development of public housing (through new construction or acquisition with major rehabilitation) by a PHA that will be owned by the PHA. Typically, a PHA designs a project on a site it owns. Pursuant to 24 CFR Part 85, the PHA advertises and competitively selects a contractor to build the project or undertake the rehabilitation. The contractor undertakes construction and is paid progress payments by the PHA in accordance with the construction contract. Upon completion, the project is owned and operated by the PHA.
2. **Acquisition:** In this method, a PHA purchases an existing property that requires little or no repair. Any repair work is done by PHA staff or contracted out by the PHA. The PHA must certify that the property was not originally constructed with the intent of selling it to the PHA or alternatively, the PHA must certify that all HUD requirements were followed when the property was developed.
3. **Mixed Finance:** Mixed finance is the development (through new construction or acquisition, with or without rehabilitation) or modernization of public housing where the public housing units are owned in whole or in part by an entity other than a PHA. Public housing agencies may choose to partner with private developers in constructing and owning mixed-income projects. If so, PHAs must select partners pursuant to 24 CFR Part 85 and 24 CFR 941 Subpart F. PHAs may loan or grant public housing funds to a private entity for development of public housing units and may pass through public housing operating subsidy as well. Public housing units may be built as part of a development that includes non-public housing units. Both public housing and non-public housing funds may be used to construct the public housing units. However, public housing funds may only be used for public housing units or related expenses.

The inclusion of public housing units in the development of non-public housing units is referred to as mixed-income development. Public housing units and non-public housing units may be individually

identified or the units may “float” as long as the number of public housing units remains the same. The management of the public housing units may be by the PHA or through a private management company. Mixed-income development increases opportunities for the physical, social, and economic integration of public housing with other types of housing and can help stimulate redevelopment of the surrounding community. More information on mixed-finance development can be found on the HUD website at: [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/programs/ph/hope6/mfph](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/hope6/mfph)

## Sources of Funds

### *Day 5, Slide 72*

A PHA may use any one or a combination of the following sources of funding to develop public housing units:

1. Capital Funds
2. Replacement Housing Factor (RHF) Funds
3. HOPE VI: HOPE VI is a competitive grant program administered by the Office of Public Housing Investments at HUD Headquarters that provides funds to selected PHAs for redevelopment of a specific public housing development. The last year of HOPE VI funding was FY 2010.
4. Choice Neighborhoods: Choice Neighborhoods is a competitive grant program administered by the Office of Public Housing Investments at HUD Headquarters that provides funds to selected PHAs for redevelopment of a specific public housing or HUD multifamily project in conjunction with other activities taking place in the surrounding neighborhood.
5. Sales Proceeds: A PHA may use funds it receives from the sale of PHA-owned land or improvements to develop public housing, subject to approval by the HUD Special Applications Center.
6. Private Financing: Public housing included as part of a mixed-finance project may be developed in whole or in part with private funds, such as Low-Income Housing Tax Credits, bonds, bank loans, city or state funds, etc.
7. Other HUD financing programs, such as the Capital Fund Financing Program (CFFP) or the Operating Fund Financing Program (OFFP) or other eligible funds approved by HUD.

## Program Requirements

### *Day 5, Slides 73-74*

Development of public housing is subject to the following requirements, in addition to other requirements of the specific funding source:

1. Limitation on number of units: A PHA may not use public housing funds to pay for the development cost of public housing units if such development would result in a net increase in the number of public housing units that the PHA owned, assisted, or operated on October 1, 1999, as provided for in PIH Notice 2011-69 (HA).

2. Site and neighborhood standards: Each proposed site to be newly acquired for public housing development or for construction or rehabilitation of public housing must meet HUD site and neighborhood standards as provided in 24 CFR 941.202.
3. Environmental requirements: All developmental activities are subject to an environmental review by a responsible entity under HUD's environmental regulations at 24 CFR Part 58 or 24 CFR Part 50.
4. Total development cost: Section 6(b) of the United States Housing Act and the regulations found at 24 CFR 941.306 require the Department to establish Total Development Cost (TDC) limits for development and/or modernization of public housing and eligible home ownership under HOPE VI and Choice Neighborhoods. TDC is used to establish the cost limit for construction of public housing units, as published annually via HUD Notice. TDC is also used to establish the cost limit on modernization, which is 90 percent of the TDC limit. Project costs subject to the TDC limit include Housing Construction Costs (HCC) and Community Renewal Costs.

The TDC limit applies to the cost of developing public housing that is paid for with public housing funds. The term "public housing funds" is defined to include funds from: the Capital Fund program, the public housing development program, the Major Reconstruction of Obsolete Projects program, the HOPE VI program, the Choice Neighborhoods program, the Capital Fund Financing program, and Capital Fund Recovery grants. Public housing funds may not be used to pay for public housing construction costs and community renewal costs in excess of the TDC limit. However, PHAs may request a waiver of the TDC limit for energy conservation purposes, such as integrated utility management, capital planning, and other capital and management activities that maximize energy conservation and efficiency, including green construction and retrofits, such as windows, heating system replacements, wall insulation, site-based generation, advanced energy savings technologies, renewable energy generation, and other such retrofits. In addition, HUD may approve excluding certain extraordinary site costs from the TDC calculation.

A PHA may use funding sources not subject to the TDC limit (e.g., CDBG funds, HOME funds, low-income tax credits, private donations, private financing) to cover project costs that exceed the TDC limit. Be aware that such funds may not be used for items that would result in substantially increased operating, maintenance or replacement costs, and must meet the requirements of Section 102 of the HUD Reform Act (42 U.S.C. 3545).

See PIH Notice 2011-38 for a complete discussion of TDC limits.

5. Declaration of Trust or Declaration of Restrictive Covenants: All public housing units developed must be placed under a Declaration of Trust (for Development projects) or a Declaration of Restrictive Covenants (for mixed-finance projects.) These documents, which are recorded as part of the official land records, ensure that the units will be operated as public housing for the applicable time period, generally 40 years plus an additional ten years after the last year in which the PHA provided operating subsidy to the project.

## Development Process

### Day 5, Slides 75-75

1. **Predevelopment funds:** For development projects, a PHA may spend up to three percent of the total project cost on pre-development activities prior to HUD approval of a Development Proposal, provided the project has been included in the PHA plan. Pre-development costs do not include payment for site work, or installation of infrastructure, construction, or any other hard costs related to the development. For mixed-finance projects or projects making use of HOPE VI or Choice Neighborhoods funds, all funding for predevelopment costs must be reviewed and approved by HUD prior to expenditure.
2. **Development projects:** For public housing units to be developed (new construction or acquisition with or without rehab) and owned by a PHA (referred to as “Development”), a PHA must submit to HUD for HUD approval a Development Proposal, pursuant to 24 CFR 941.304. The Development Proposal must include a full description of the project, a project budget, schedule, financing, and appraisal, as well as other required elements. The Development Proposal will be reviewed and approved by the Field Office, unless otherwise agreed to by the Field Office and the Office of Public Housing Investments at HUD Headquarters. Once approved by HUD, PHAs may disburse amounts necessary and consistent with the Development Proposal without further HUD approval, unless HUD determines that such approval is necessary.
3. **Site acquisition:** When a PHA determines that it is necessary to acquire land for development of new public housing units, the PHA must submit to HUD for HUD approval a Site Acquisition Proposal, pursuant to 24 CFR 941.303. The Site Acquisition Proposal must include site information, a justification for acquisition, a schedule, as well as other required elements. The Site Acquisition Proposal will be reviewed and approved by the Field Office, unless otherwise agreed to by the Field Office and the Office of Public Housing Investments. For any subsequent development on the acquired site, PHAs must submit a Development Proposal as identified above.
4. **Mixed-finance projects:** For all mixed-finance projects, a PHA must follow the procedures set forth in 24 CFR 941 Subpart F. For each project, the PHA must submit a Mixed-Finance Proposal. A Mixed-Finance Proposal includes a development description, information on participating parties, project financing, construction costs, and other required information. HUD has developed a Rental Term Sheet, which can be used by PHAs to cover part of the information contained in a Mixed-Finance Proposal. In addition to the Mixed-Finance Proposal, PHAs are also required to submit to HUD draft copies of legal documents related to the transaction. Once HUD has approved the Mixed-Finance Proposal and draft legal documents, a project’s financial closing may take place. However, no public housing funds may be expended until the PHA has submitted to HUD copies of all executed legal documents. Once HUD has approved these final documents, the PHA may expend public housing funds for the project, as provided for in the project budget.

All mixed-finance projects are reviewed and approved by the Office of Public Housing Investments at HUD Headquarters, unless authority is delegated to a Field Office. However, Field Offices are responsible for reviewing certain elements of Mixed-Finance Proposals and legal documents. Typically, Field Offices review management documents and title and survey information. Further, Field Office Public Housing Directors execute the Mixed-Finance Amendment to the ACC Contract on behalf of HUD.

## Required Submissions

- Form HUD-50077, PHA Certifications of Compliance with the PHA Plans and Related Regulations
- Form HUD-50070, Certification for a Drug-Free Workplace (PHAs receiving CFP grants only)
- Form HUD-50071, Certification of Payments to Influence Federal Transactions (PHAs receiving CFP grants only)
- Form SF-LLL, Disclosure of Lobbying Activities (PHAs receiving CFP grants only)
- Form SF-LLL-A, Disclosure of Lobbying Activities Continuation Sheet (PHAs receiving CFP grants only)
- Resident Advisory Board (RAB) comments
- Challenged Elements: Include any element(s) of the PHA plan that is challenged.
- Form HUD-50075.1, Capital Fund Program Annual Statement/Performance, and Evaluation Report (must be attached electronically for PHAs receiving CFP grants only).
- Form HUD-50075.2, Capital Fund Program Five-Year Action Plan (must be attached electronically for PHAs receiving CFP grants only).

## Module 4 Knowledge Check

*This knowledge check should be completed at the end of Module 4. Participants should circle their chosen answer. Leaders should review the correct answer using the following answer key once participants complete the knowledge check.*

1. CFP funds may be used for public housing development. All of the following are eligible development methods except:
  - a) Conventional development
  - b) Mixed-finance development
  - c) Acquisition without major rehabilitation
  - d) All of the above are eligible development methods
2. Where a new development includes both public housing-eligible units and non-public housing-eligible units, public housing funds may only be used to support public housing-designated units, which may be floating units.
  - a) True
  - b) False
3. PHAs that have sales proceeds from the disposition of public housing units may use sales proceeds for the development of public housing with the approval of:
  - a) The REAC
  - b) PIH
  - c) SAC
  - d) MFH
4. A mixed-financed development is one in which both public and private funds have been committed.
  - a) True
  - b) False
5. All public housing units developed must be placed under either a Declaration of Trust or a Declaration of Restricted Covenants. They differ in that:
  - a) The Declaration of Trust is used for mixed-financed developments and the Declaration of Restricted Covenants is used for public housing development
  - b) The Declaration of Trust is used for public housing development and the Declaration of Restricted Covenants is used for mixed-financed development
6. All mixed-financed development must be approved by:
  - a) The REAC
  - b) Office of Public Housing
  - c) Office of Public Housing Investments
  - d) The SAC

**Stop: Do not proceed until the training Leader prompts you to turn the page.**

## Module 4 Knowledge Check

### Answer Key

Correct answers are indicated in **bold**.

1. CFP funds may be used for public housing development. All of the following are eligible development methods except:
  - a) Conventional development
  - b) Mixed-finance development
  - c) Acquisition without major rehabilitation
  - d) **All of the above are eligible development methods**
2. Where a new development includes both public housing-eligible units and non-public housing-eligible units, public housing funds may only be used to support public housing-designated units, which may be floating units.
  - a) **True**
  - b) False
3. PHAs that have sales proceeds from the disposition of public housing units may use sales proceeds for the development of public housing with the approval of:
  - a) The REAC
  - b) PIH
  - c) **SAC**
  - d) MFH
4. A mixed-financed development is one in which both public and private funds have been committed.
  - a) True
  - b) **False**
5. All public housing units developed must be placed under either a Declaration of Trust or a Declaration of Restricted Covenants. They differ in that:
  - a) The Declaration of Trust is used for mixed-financed developments and the Declaration of Restricted Covenants is used for public housing development
  - b) **The Declaration of Trust is used for public housing development and the Declaration of Restricted Covenants is used for mixed-financed development**
6. All mixed-financed development must be approved by:
  - a) The REAC
  - b) Office of Public Housing
  - c) **Office of Public Housing Investments**
  - d) The SAC



## Appendix 1: PHA Checklist for Executive Directors

- ✓ Develop a training plan for staff on general program administration. [Reference: HUD Guidebook 7401.7] Training should include:
  - New employee orientation
  - Ethics training
  - Formal and on-the-job program training
  - Personnel policy basic training
  - PHAS training
  - Public Housing Management Certificate training
  - Procurement training
  - Cross-training on program requirements among employees
  - Basic finance procedures for non-finance staff
  - Conflict resolution training (250 units or more)
- ✓ Review, develop and implement position descriptions and staff performance standards [Reference: HUD Guidebooks 701.1 & 7401.7]
  - Develop position descriptions and performance standards; include physical requirements and develop descriptions for those missing.
  - Implement position descriptions and performance standards.
  - Obtain employee signatures and place copies in personnel files.
  - Conduct evaluation of staff performance and document in accordance with personnel policy.
  - Evaluate existing staff performance standards and revise as necessary.
  - Initiate appropriate union negotiations to adopt revised position descriptions and performance standards in compliance with union contract and applicable state law.
- ✓ Establish and maintain employee records in accordance with personnel policy. [Reference: HUD Guidebooks 701.1 & 7401.7]
  - Develop tracking register to track accrued annual and sick leave.
  - Acquire staff certification on issuance of job descriptions and performance standards.
  - Develop tracking log for reimbursement of mileage on personal auto use.
  - Obtain W-4 exemption forms on all staff.
  - Maintain copies of annual evaluations and employee concurrence in accordance with personnel policy.
- ✓ Maintain current employee address, phone number, and emergency contact information. Improve Current Ratio (current assets divided by current liabilities). [Reference: 24 CFR 902, Subpart C]
  - Develop tracking method for current ratio.
  - Report monthly with progress report to board/HUD.

- Review staffing needs and reduce salary costs where feasible.
  - Review other sources of income, i.e., investments, waiver of PILOT, CGP use for operations, local funding, expanding other HUD programs, increasing occupancy, reducing accounts receivables, etc.
  - Review expenses and reduce/eliminate where appropriate.
- ✓ Increase the expendable fund balance (expendable fund balance divided by monthly operating expenses). [Reference: 24 CFR 902, Subpart C]
- ✓ Improve net income/loss ratio (measure of how the year's operations have affected the PHA's viability). [Reference: 24 CFR 902, Subpart C]
- Develop tracking method for net income/loss and fund balance.
  - Analyze income and expenses to ensure a balanced budget or positive cash flow.
  - Revise budget based on analysis.
  - Report monthly with status report to the board and HUD. Ensure income and expenses comply with the latest approved budget.
- ✓ Comply with OMB Circular A133 by completing and submitting the annual audit. [Reference: OMB Circular A-133, 24 CFR 990.120, OIG]
- Ensure timely submission.
  - Ensure findings are resolved in a timely fashion.
  - Resolve any questioned costs.
  - Determine audit requirement for small PHAs.
- ✓ Determine the PHA's total financial resources (including other federal, state, local, and nonprofit, etc.). [Reference: Public Housing Reform Act of 1998, Five-Year Plan]
- Evaluate and report on the PHA's long-term financial stability.
  - Analyze future income streams from dwelling and non-dwelling rental income (Welfare to Work, Mixed Income).
- ✓ Develop and maintain an investment register. [Reference: HUD Guidebook 7510.1]
- Analyze potential for increasing investment income.
  - Use data to support PFS calculation.
- ✓ Acquire and maintain adequate insurance coverage. [Reference: HUD Guidebooks 7401.5 & 7510.1; 24 CFR 965.201]
- Develop and maintain insurance register to track policies.
- ✓ Convert to GAAP accounting (transition from HUD accounting). [Reference: 24 CFR 902.33]
- Verify conversion has been implemented and is completed.
  - Fixed assets (include allowance for depreciation).

- Unrecorded liability (sick and vacation leave).
- Allowance on doubtful accounts.
- ✓ Review property inventory practices and implement necessary procedures. [Reference: HUD Guidebook 7510.1]
  - Develop and maintain a property ledger.
  - Conduct an annual physical inventory of dwelling/non-dwelling equipment.
  - Conduct an annual physical inventory of maintenance and other expendable supplies.
  - Adjust the property ledger and inventory accounts, based on results of physical inventory.
- ✓ Execute/update General Depository Agreement. [Reference: Annual Contributions Contract; HUD Guidebook 7410.0]
- ✓ Allocate costs accurately among programs. [Reference: OMB Circular A-87]
  - HUD will provide technical assistance in establishing the allocation of administrative costs.
  - Develop/update the allocation plan.
  - Evaluate the impact and accuracy of the allocation plan.
- ✓ Improve financial management of the PHA. [Reference: HUD Guidebooks 7510.1 & 7475.1]
  - Develop, adopt, and implement financial management policies, including:
    - Disposition policy
    - Capitalization policy
    - Collection losses/charge-off policy
    - Check writing authorization policy
    - Cash overages/shortages policy
    - Investments policy
    - Cash management/internal procedures policy
    - Petty cash policy
- ✓ Improve timely submission of the following reports to HUD. [Reference: HUD Guidebook 7510.1]
  - Budgets
  - Statement of Operating Receipts and Expenditures Statement (SORES)
  - Financial Data Schedule (FDS)
  - Tenant Accounts Receivable (TAR)/Occupancy
  - Performance Funding System (PFS) Adjustments
- ✓ Provide PHA technical assistance and/or training in financial planning. [Reference: OIG Issues]
  - Provide training in budgeting (PHA-wide, program specific and departmental).
  - Provide training in financial management.

- Include bookkeeping (formal) and cash management/internal controls for finance staff.
  - Provide basic financial training for non-financial staff and board.
  - Provide training on the Performance Funding System (PFS).
  - Provide training on financial management policies. (Refer to Performance Target 3.15.)
- ✓ Improve PHA procurement practices. [Reference: 24 CFR 85.36; HUD Guidebook 7460.8]
- Develop/update, adopt and implement agency-wide procurement policy and contract administration procedures to include PHA, HUD, OMB, and state requirements.
  - Evaluate the use of annual indefinite delivery/blanket purchase agreements to promote cost savings.
  - Conduct cost analysis and estimate for all procurement actions.
  - Identify and define types of contracts for construction, supplies, professional services, and nonprofit entities.
  - Identify and define competitive and non-competitive methods and requirements, including small purchases, petty cash, sealed bids, RFP/RFQ, MBE/WBE, and Section 3.
  - Establish a policy to respond to protests and disputes.
  - Develop consolidated supply lists, inter-agency agreements, and similar sources.
  - Develop contract administration procedures to include identification of Contracting Officer and Contracting Officer Representative, Initial Meeting, progress reports and monitoring, default notices, payment schedules and approvals, and final audit and/or closeout.
  - Establish contracting file system.
  - Develop an annual procurement plan.
- ✓ Verify PHA staff compliance with agency procurement policies and practices. [Reference: 24 CFR 85.36, HA Procurement Policy; HUD Guidebook 7460.8]
- Ensure procurement is done in accordance with procurement policy and CFR 85.36.
  - Ensure Contracting Officer and Contracting Officer Representative(s) and their responsibilities are identified and carried out.
  - Ensure compliance with thresholds and processes.
- ✓ Provide PHA technical assistance and/or training in procurement to include: [Reference: 24 CFR 85.36]
- HUD procurement requirements (24CFR85.36)
  - OMB grant administration requirements
  - State requirements
  - PHA procedures and policy compliance
  - Contracts for construction, supplies, professional services, and nonprofit grantees
  - Procurement planning

- Cost analysis and estimating
  - Competitive methods and requirements
  - Protests and appeal procedures
  - Consolidated supply lists and similar sources
  - Contract administration
  - Contract file system
- ✓ Provide technical assistance to resident council organizations. [PIH Notice 96-67]
- Facilitate formation of resident council; develop or revise by-laws as needed.
  - Provide technical assistance to elected resident council officers on the following topics:
    - Organizational skills
    - HOPE VI
    - Section 3/MBE/FHEO/WBE
    - Community outreach skills/networking
  - Facilitate communication with other resident councils.
- ✓ Improve communication between management and residents to improve customer satisfaction.  
[Reference: Public Housing Reform Act of 1998]
- Promote active resident organizations and activities encouraging a self-sufficiency environment.
  - Distribute information on current activities to all residents on an ongoing basis and provide a copy to HUD. Update bulletin boards on monthly basis in all developments.
  - Develop a process for effectively addressing and resolving correctable resident dissatisfaction items.
  - Meet with resident leadership on a regular (e.g., monthly) basis.
  - Provide monthly progress report to board/HUD.

## Appendix 2: Capital Fund Responsibilities of Board and Staff

- ✓ Improve the physical condition and long-term viability of the developments. [Reference: 24 CFR 968.315, 903.1-11]
  - **Incorporate the results in the PHA annual and five-year plans.**
  - Conduct a comprehensive physical needs assessment by development.
  - Evaluate, prioritize, and develop the Five-Year Action Plan to include the comprehensive physical needs assessment.
  - Determine viability of all public housing developments for continued use as public housing.
- ✓ Improve the management capacity of the agency. [Reference: 24 CFR 968.315, 903.1-11]
  - Use data to establish management improvement needs.
  - Evaluate, prioritize, and develop the Five-Year Action Plan to include the management needs assessment.
  - Coordinate eligible training programs with available funds.
  - Evaluate the feasibility of hiring a modernization coordinator.
  - **Incorporate the results in the PHA annual and five-year plans.**
- ✓ Improve the timely obligation of capital funds. [Reference: 24 CFR 901.15(b)]
  - **Obligate funds within two years of obligation start date.**
  - Determine appropriateness of contract vs. force account labor for obligation purposes.
- ✓ Improve the timely expenditure of capital funds. [Reference: 24 CFR 901.15(a)]
  - **Expend funds within four years of obligation start date.**
  - Submit final Actual Modernization Cost Certificate (AMCC) to HUD.
  - Close out all completed modernization programs pending final audit.
- ✓ Improve the quality of physical work. [Reference: 24 CFR 85.36]
  - Establish quality control to ensure compliance with construction contract documents to include contract monitoring and periodic construction inspections.
  - Establish periodic (weekly, monthly, etc.) progress meetings with contractor and A/E.
- ✓ Improve effectiveness of construction contract administration procedures. [Reference: 24 CFR 968.135]
  - Develop a system to schedule pre-construction conferences, notice to proceed, and contract work.
  - Complete procurement in accordance with procurement policy and 24 CFR 85.36.
  - Identify Contracting Officer and Contracting Officer Representative(s).
  - Develop a daily log to document construction work activities.
  - Comply with Davis Bacon requirements and/or prevailing wage rate requirements.

- Submit proper closeout documentation for construction contracts.
  - Conduct final inspection, complete punch-list items, and issue Notice of Acceptance.
  - Obtain warranties and product information manuals; provide copies to maintenance department.
  - Complete and submit Contractor's Certificate of Completion and Release.
  - Maintain all contract files in an orderly and retrievable manner.
- ✓ Establish more effective budget controls and capital fund tracking procedures. [Reference: 968.320, 902.43(a)(2)]
- Ensure proper authorization and training of personnel accessing eLOCCS.
  - Develop an effective capital fund tracking procedure.
  - Submit P&E/semi-annual progress reports on a timely basis.
  - Update obligations and expenditures regularly in eLOCCS.
  - Develop a schedule/plan for resolving findings.
  - Report status and methods of resolution in monthly status/progress reports to HUD.
- ✓ Comply with ADA/Section 504 requirements. [Reference: 24 CFR 968.110(a); PIH Notice 99-52]
- Develop/update self-assessment, needs assessment, and transition plan(s).
  - Report progress on implementation of transition plan.
  - Comply with existing Voluntary Compliance Agreement (VCA), where applicable.
- ✓ Comply with HUD Notice 99-11 requirements regarding hard-wired smoke detectors/sprinkler systems. [Reference: PIH Notice 99-11]
- Report deficiencies to HUD.
  - Report status and methods of resolution in monthly status/progress reports to HUD.
- ✓ Comply with lead-based paint (LBP) and asbestos abatement requirements. [Reference: 24 CFR 965.701-711]
- All LBP testing should be completed.
  - Family units testing positive for LBP should have abatement plans.
  - Abate asbestos as required.
  - Include scheduled abatements in maintenance plan or Capital Funds programs.
  - HUD to provide technical assistance as required.
- ✓ Comply with energy audit requirements. [Reference: 24 CFR 965.302]
- Incorporate results of energy audit in five-year plan.
  - Determine feasibility of energy performance contracting.
  - HUD to provide technical assistance as required.

- ✓ Comply with environmental requirements. [Reference: 24 CFR Part 50]
  - Update environmental assessment annually.
  - Incorporate results of environmental assessment in five-year plan.
  - HUD to provide technical assistance as required.
- ✓ Reduce the findings and risk of findings in the administration of capital funds programs. [Reference: 24 CFR 85.36; HA Procurement Policy]
  - Develop effective contract administration procedures for the Architect-Engineer (A/E).
  - Comply with procurement policy and CFR 85.36.
  - Establish periodic (weekly, monthly, etc.) progress meetings with A/E & PHA.
  - Establish quality control(s) during preparation and development of construction contract documents.
  - Develop effective PHA procedures for administering the A/E contract.
  - Monitor compliance with A/E contract/agreement.
- ✓ Coordinate/communicate regarding modernization activities with PHA staff and residents. [Reference: 24 CFR 968.125, 901.13, 902.43(a)(2)]
  - Conduct cross-functional meetings as appropriate.
  - Report status and methods of resolution in monthly status/progress reports to HUD.
- ✓ Encourage use of MBE/WBE, Section 3, and/or resident hiring in construction contracts. [Reference: 24 CFR 135.30-40, 85.36e; HUD Guidebook 7401.1]
  - Develop a schedule/plan for resolving findings.
  - Report status and methods of resolution in monthly status/progress reports to HUD.
- ✓ Evaluate the need for HOPE VI and/or demolition and request funds, if applicable. [Reference: 24 CFR 970; PIH Notice 99-19]
  - Ensure timely obligation of HOPE VI funds.
  - Ensure timely expenditure of HOPE VI funds.
  - Ensure quality of physical work.
  - Develop effective construction contract administration procedures.
  - Establish effective budget controls and HOPE VI fund tracking procedures.



## Appendix 3: Checklist for PHA Board Members

- ✓ Establish short- and long-term goals and objectives for the PHA. [Reference: 24 CFR 903.1, Public Housing Reform Act of 1998, PIH Notices 99-51 & 99-33]
  - Review, revise, and adopt HUD Public Housing Reform Act of 1998 as necessary.
  - Coordinate with local jurisdictions and obtain public comment as required.
- ✓ Establish goals for Section 3 and MBE/WBE participation. [Reference 24 CFR 85.36(e), 135.30]
- ✓ Ensure permanent records of the PHA comply with applicable laws and regulations. [Reference: 24 CFR 990.201, 990.315, HA By-laws]
  - All minutes must be approved, dated, signed, and sealed.
  - The board must comply with appropriate notice for special meetings and document compliance.
  - Resolutions must be tracked annually and reviews made as necessary.
- ✓ Establish short- and long-term goals and objectives for the PHA. [Reference: 24 CFR 903.1, Public Housing Reform Act of 1998, PIH Notices 99-51 & 99-33]
  - Develop a five-year agency/annual plan that states the PHA's views and objectives in compliance with HUD Public Housing Reform Act of 1998. Review, revise, and adopt as necessary.
  - Coordinate with local jurisdictions and resident advisory board and obtain public comment as required.
- ✓ Establish goals for Section 3 and MBE/WBE participation. [Reference 24 CFR 85.36(e), 135.30]
- ✓ Ensure permanent records of the PHA comply with applicable laws and regulations. [Reference: 24 CFR 990.201, 990.315, HA By-laws]
  - All minutes must be approved, dated, signed, and sealed.
  - The board must comply with appropriate notice for special meetings and document compliance.
  - Resolutions must be tracked annually and reviews made as necessary.
- ✓ Recruit and hire a qualified executive director. [Reference: HUD Guidebooks 701.1 & 7401.7, HA Personnel Policy, State Law]
  - Review the position description.
  - Develop a solicitation package.
  - Advertise locally, nationally, and in industry publications.
  - Review applications received; verify references; rank applicants.
  - Interview top-ranking applicants.
  - Select best-qualified applicant and negotiate terms of offer.
  - Obtain board approval.
  - Announce selection.

## Appendix 4: Class Activity

### ABC PUBLIC HOUSING AUTHORITY (ABCHA) GENERAL BACKGROUND:

Obligation Start Date (OSD): 07-15-2010

Obligation End Date (OED): 07-14-2012

Disbursement End Date (DED): 07-14-2014

Authorized Grant Amount: \$580,324.00

- This amount is identified on the Annual Contributions Contract (ACC) Amendment and in the Line of Credit Control System (LOCCS).
- The ACC Amendment signed by the PHA also states that the PHA will obligate 90 percent of the authorized grant amount within 24 months and expend 100 percent of the grant within 48 months of the funds being made available.

LOCCS Alerts—LOCCS automatically provides PHAs warning notices at various intervals that the OED is imminent.

On June 1, 2010, the ABC Housing Authority (ABCHA) calls the HUD Field Office to ask that its obligation end date (OED) for this 2010 Capital Fund grant can be extended. The HUD Field Office explains that requests for extension of the OED must be formally submitted in writing to Headquarters with a copy to the Field Office. Further, a PHA must meet one of the justifications for extension of the OED found in the statute and regulation. Finally, only the Assistant Secretary for Public and Indian Housing can approve an extension with concurrence from the Office of General Counsel.

#### Question 1:

What are the reasons the ABCHA could use to justify a request an extension of the OED date?

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_

After reviewing the justifications for the request for extension with the PHA, it appears to the HUD Field Office that the ABCHA has no justification to request an extension. However, the ABCHA does have the option to submit a budget revision to the HUD Field Office to move funds into a budget line item that will allow the housing agency to obligate this grant by the OED. The ABCHA intends to use fungibility.

**Question 2:**

What does fungibility entail?

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What resources would the ABCHA use to determine a possible budget revision that could help quickly obligate the funds in the 2010 grant? Be specific and identify any forms or plans by name.

1. 

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2. 

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The ABCHA submits a budget revision, which includes a new work item, the demolition of a building, which is not under ACC or Declaration of Trust. The work item is not in the Five-Year Action Plan. The HUD Field Office subsequently rejects the ABCHA's budget revision.

**Question 3:**

Why did the HUD Field Office reject the budget revision?

1. 

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2. 

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3. 

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The ABCHA submits a second budget revision, which is for \$15,000.00 to be moved from BLI 1460 Dwelling Structures to BLI 1465 Dwelling Equipment. The dwelling equipment for another development is in the ABCHA's Five-Year Action Plan and it is not a significant amendment under the ABCHA's definition. The HUD Field Office receives the request for a budget revision on June 20, 2010, but the Field Office does not take any action to approve or reject the request. The budget revision is not processed and the OED passes. The ABCHA's last LOCCS reports are follows: for the period ending 6-30-12, the ABCHA obligated 78 percent; for the period ending 7-14-12, the OED, the ABCHA obligated 78 percent. On July 28, 2012, the ABCHA gets a noncompliance letter from HUD Headquarters in Washington, DC, stating that the housing agency is in noncompliance with Section 9(j) of the Act.

**Question 4:**

What are the criteria for being in noncompliance of Section 9(j) of the Act?

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**Question 5:**

How should the PHA respond? Is there a legal recourse in 905.120 of the regulation related to extensions of the obligation deadline?

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**Question 6:**

What is HUD's culpability as it relates to the budget revision and the ABCHA meeting the OED deadline?

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## **ABC Housing Authority<sup>11</sup>**

The ABC County Housing Authority was established under the U.S. Housing Act of 1937 for the purpose of providing affordable housing to low- and moderate-income families in ABC County, USA. The governing body of the Authority is composed of a five-member appointed board of commissioners. The mayor of ABC County appoints the board, which in turn hires the executive director.

The Authority owned and managed 175 conventional low-income public housing units, 128 of which had been approved for disposition. The Authority receives operating funds and capital funds from HUD for the operation and modernization of its low-income public housing units.

Each year, HUD provides funds to PHAs for the operation and management of public housing. For fiscal year 2011, the Authority had received \$281,127, as of August 31, 2011.

HUD annually provides capital funds to PHAs for the development, financing, and modernization of public housing developments and for management improvements. The Authority received Capital Fund grants of \$249,148 for fiscal year 2008, \$247,847 for fiscal year 2009, \$247,013 for fiscal year 2010, and \$203,942 for fiscal year 2011. The Authority had nearly \$880,000 in available capital funds as of August 31, 2011.

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<sup>11</sup> This case study is based upon the findings of the HUD OIG issued in January 2012. This case study is designed to be a cautionary tale for class participants and to reiterate the importance of compliance with program requirements.

The Authority also received a \$315,372 Capital Fund Grant as part of the American Recovery and Reinvestment Act of 2009. The purpose of the Recovery Act was to jumpstart the nation's ailing economy, with a primary focus on creating and saving jobs in the near term and investing in infrastructure that will provide long-term economic benefits.

The Authority also managed a Section 8 Housing Choice Voucher program. It began this program to relocate the public housing tenants that resided in the 128 public housing units approved for disposition. The housing choice vouchers allow very low-income families to choose and lease or purchase safe, decent, and affordable privately owned rental housing. The Authority managed 113 housing choice vouchers and had received program funds from HUD of \$561,989 in fiscal year 2010, \$456,139 in fiscal year 2011, and \$391,827 in fiscal year 2012, as of September 2011.

Our objective was to determine whether the Authority complied with HUD requirements for administering its public housing program, including funds received under the Recovery Act, and its Section 8 Housing Choice Voucher program.

## **SCENARIO ONE**

**The Authority could not support that it provided annual operating budget information to its board of commissioners for approval as required by Section 11(A) of its Consolidated Annual Contributions Contract.**

Authority staff was unaware of any budget reports prepared by the former executive director and expressed doubt that any existed. Management was either unaware of the requirement to prepare an operating budget for each of its fiscal years and have it approved by its board of commissioners or chose to ignore the requirement. The absence of budgetary information limited the board's effectiveness in contributing to the planning and oversight of the Authority.

The Authority did not maintain its records in such a manner as to permit timely and effective audit as required by Section 15(A) of its Consolidated Annual Contributions Contract. In several instances, we experienced difficulty in obtaining needed documents from either the files or Authority staff. We inspected the former executive director's files for missing documentation; however, the files had no discernable system of organization, and we were unable to determine whether the documents were accurate or complete enough to be useful. We frequently had to rely on HUD staff for documents that should have been readily available in the Authority's files. Management was either unaware of the document maintenance requirements or chose to ignore them. The lack of complete and accurate records could result in inefficient Authority operations, inaccurate reports to HUD, and the diminished effectiveness of audits.

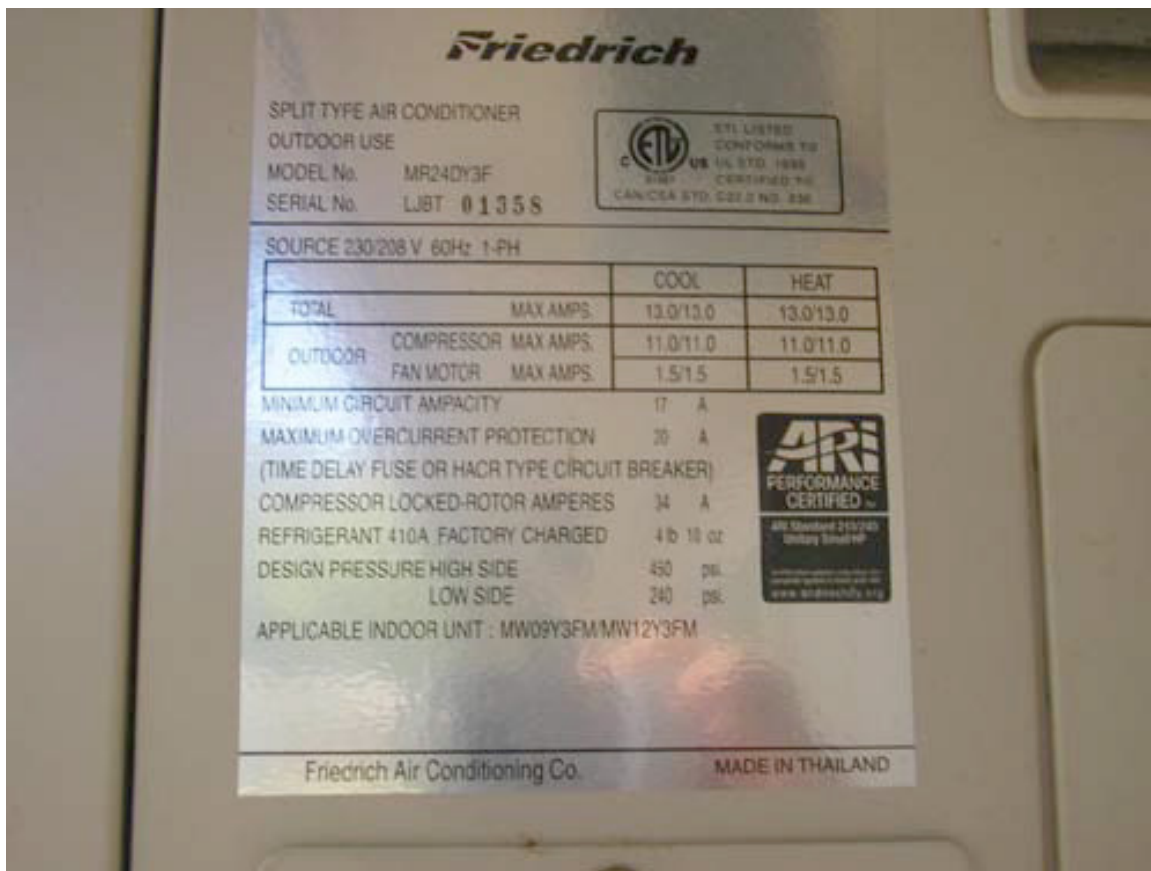
## **SCENARIO TWO**

**The Authority did not comply with Recovery Act procurement requirements.**

The Authority used its entire \$315,372 capital fund Recovery Act grant to partially fund one contract to install 44 heating, ventilation, and air conditioning (HVAC) systems in its Cory Terrace public housing complex. The total contract amount for the project was \$342,700. Section 1605 of the Recovery Act imposes a "buy American" requirement on Recovery Act funding. The "buy American" requirement

states that manufactured goods must be manufactured in the United States. The “buy American” provision was not referenced in the contract documents for the HVAC installation, nor did the Authority seek a waiver of this requirement from HUD.

The Authority’s procurement documentation contained references to the “buy American” requirement in correspondence between the Authority and its architectural and engineering firm for the project, but did not support that the “buy American” provision was complied with. We inspected the HVAC units and found that they were manufactured in Thailand. The photograph below shows the product label on one of the HVAC units. Since there was no evidence that the Authority complied with the “buy American” provision, the entire \$315,372 Recovery Act grant was ineligible.



### SCENARIO THREE

**The Authority also failed to advertise the HVAC procurement.**

HUD’s procurement regulations at 24 CFR (**Code of Federal Regulations**) 85.36 (c) (1) require that all procurements be conducted in a manner providing full and open competition and that the invitation for bids be publicly advertised. In addition, the Authority’s procurement procedures required the request for bids for contracts of \$100,000 or more to be publicly advertised at least once a week for two consecutive weeks.

The Authority’s architectural and engineering firm confirmed that it contacted several companies on behalf of the Authority but did not formally advertise. Authority staff was unaware of any other

advertisement related to the project. As a result, the Authority could not assure HUD that a request for bids was advertised as required, thus ensuring full and open competition.

Additionally, the Authority did not conduct an independent cost estimate for this project. The Authority's procurement procedures required the Authority to perform an independent cost estimate for all purchases above the micro purchase threshold, and HUD's regulations at 24 CFR 85.36 (f) require a cost or price analysis in connection with every procurement action. The former executive director was unaware of the requirement or the process for conducting independent cost estimates. As a result, HUD could not be assured that the Authority received the HVAC units at the most reasonable cost.

We reviewed three non-Recovery Act procurements and found that two lacked documentation in support of full and open competition.

The Authority accepted the next-to-lowest cost proposal of \$8,350 for the exterior painting of its XYZ Terrace public housing complex. Procurement documentation did not include a justification for selecting other than the lowest proposal as required by Authority procurement procedures. The Authority expended \$8,736 for the painting project due to additional minor items being added to the scope of work.

The Authority did not sufficiently document its rationale for selecting the vendor for its landscaping contract. The documentation did not include evidence that quotes were obtained as required by Authority purchasing procedures or a justification for why the landscaper was chosen. The Authority had expended \$4,958 for this contract as of August 31, 2011.

The Authority did not comply with all procurement requirements for its Recovery Act capital fund grant and two other procurements. As a result, it expended its entire \$315,372 Recovery Act grant for an ineligible purpose, could not show that it fairly competed other procurements for which it expended \$13,694, and could not assure HUD that its procurements were obtained at a reasonable cost or through full and open competition. This condition occurred because management either was unaware of the procurement requirements or chose to ignore them.

## SCENARIO FOUR

**The Authority applied for approval to dispose of ABC Gardens for its \$200,000 fair market value and received approval from HUD's Special Applications Center on May 28, 2009.**

ABC Gardens contained three non-dwelling buildings, including the Authority's former administrative building, 56 dwelling buildings containing 128 dwelling units, three nonresidential units, and 24.5 acres of underlying land. The Authority had not received any formal offers for ABC Gardens at the time of our audit. They allowed the facility to "go back to nature." We found the development in deplorable condition. All of the buildings had been vandalized, and nearly everything of value had been stolen. Thieves had gutted the buildings for the copper wiring, lighting fixtures, and most doors and windows. The property appeared to have been untended for quite some time, as vegetation had grown unchecked and was higher than the buildings in some cases.

The former executive director's "go back to nature" statement indicated a conscious and willful decision to abandon ABC Gardens. Authority staff indicated that the site had been boarded up after the



administrative office was moved to its current location during the summer of 2010 and had been untended since that time. As a result of the abandonment, ABC Gardens appeared to be significantly devalued, making it unlikely that the Authority would be able to dispose of the property for the \$200,000 fair market value approved in its disposition application. The Authority will also likely incur additional costs to clean up or demolish the site. The photographs below provide examples of the property conditions at the time of our site visit.



ABC Gardens—Doors and windows missing from the former administration building.





ABC Gardens—Example unit exteriors

## SCENARIO FIVE

### **Management failed to protect tenants' sensitive personally identifiable information.**

Sensitive personal information that is lost, compromised, or disclosed without authorization could substantially harm an individual. Examples of such information include Social Security or driver's license numbers, medical records, and financial account numbers such as credit or debit card numbers. HUD PIH Notice 2010-15 contains many requirements applicable to such information, including the requirement that sensitive personal information be kept in locked files. The Authority was also required to keep accurate records of where the information was stored, used, and maintained.

During our site visit to the Authority's abandoned ABC Gardens development, we inspected the Authority's former administration building and found documents scattered across the floor in several rooms. We examined a few of the documents and found sensitive personal information, such as copies of birth certificates, Social Security cards, driver's licenses, and other documents pertaining to tenants and their dependents.

Authority staff members stated that they were unaware of the documentation left behind from the move to the new administration building. They indicated that the former executive director was responsible for the move and had informed them that everything had been boxed up and removed. The photograph below shows the interior of the former administration building.



## SCENARIO SIX

**The Authority was unable to provide documentation to support that 2008 capital funds were properly obligated within prescribed timeframes.**

Regulations require that such funds be obligated no later than two years after they were made available to the Authority.

We reviewed HUD's Line of Credit Control System reports to determine whether the Authority reported it had been able to obligate its capital funds within applicable timeframes. HUD's system, which tracks PHA progress in obligating and expending HUD funds, showed that the Authority reported that it had met its obligation deadlines for its 2008 capital fund grant. However, Authority staff were unable to provide supporting documentation for obligating the funds.

HUD regulations (24 CFR 905.120 (c)(1)) prohibit awarding new capital fund assistance for any month during any fiscal year in which a PHA is in violation of the two-year obligation deadline. Since the 2008 capital fund obligation deadline was June 12, 2010, the \$450,955 in capital fund grants awarded after that date are in jeopardy of being taken back by HUD and distributed to other PHAs.

Capital fund grants awarded after June 12, 2010		
Capital fund grant year	Date award signed by HUD	Amount of grant in jeopardy
2010	July 15, 2010	\$247,013
2011	August 3, 2011	\$203,942
Total		<u>\$450,955</u>

## SCENARIO SEVEN

**Mismanagement of the Section 8 program resulted in several significant deficiencies.**

**We performed a review of a non-statistical sample of five tenant files.**

None contained verification of owner eligibility before the tenants were allowed to participate in the program, and the Authority's housing manager confirmed that owner eligibility had not been verified. HUD requirements (Chapter 11 of HUD Guidebook 7420.10G) prohibit the execution of a housing assistance payments contract before verification of owner eligibility. Without verification of eligibility, the Authority could not ensure that ineligible owners were prevented from participating in the program.

None of the five tenant files contained accurate calculations of the tenant's utility allowance. The Authority's housing manager stated that the former executive director instructed staff to include only heating, cooking, other electric, and water heating when calculating a tenant's utility allowance. HUD regulations require that the Authority maintain a utility allowance schedule for all tenant-paid utilities (except telephone), the cost of tenant-supplied refrigerators and ranges, and other tenant-paid housing services (such as trash collection). In addition, the Authority's Section 8 plan required the Authority to include all tenant-paid utilities in the calculations. As a result of the executive director's improper guidance, the Authority miscalculated tenant utility allowances. In addition, it had not updated its utility allowance schedule since the inception of its Section 8 program in 2009. HUD regulations require a documented review of Authority schedules of utility allowances annually.

None of the five files reviewed contained documentation supporting that the Authority provided Form HUD-52641-A (tenancy addendum) to the tenants or that it was included as part of the tenants' lease with the owner as required. The tenancy addendum contains specific terms explaining the rights and obligations of all parties to a housing assistance payments contract that must prevail over any other provisions of the lease. The housing manager confirmed that staff was unaware of the tenancy addendum requirement.

In all five files reviewed, the Authority failed to follow HUD's requirements for determining rent reasonableness before the execution of the leases. HUD regulations (24 CFR 982.507) require the Authority to determine that the rent is reasonable before approving a lease. The regulations and the Authority's administrative plan explain the process for determining rent reasonableness through a survey of comparable unassisted units. For these five families, the Authority had no basis for assuring HUD that funds were not wasted on inflated rents or that families were not inappropriately restricted as to where they could live.

Of the five tenant files reviewed for housing quality standards inspection forms, one file did not contain an inspection form, and the other four contained incomplete forms. HUD regulations prohibit the execution of a housing assistance payments contract before a satisfactory housing quality standards inspection. The incomplete forms were missing details such as:

- Census tract information
- The name of the family
- The date of the inspection request
- The year the unit was constructed
- The number of bedrooms for the purposes of determining the fair market rent or payment standard
- Inspection information on the bedrooms in the unit
- Information on the exterior of the unit
- Information on the heating and plumbing of the unit
- Information on the general health and safety of the unit

Due to the Authority's incomplete inspections and a lack of staff training, the Authority could not assure HUD that it performed satisfactory inspections before the execution of housing assistance payments contracts.

In three of the five files reviewed, there was no evidence of the head of household's citizenship. Authority staff stated that the documentation was in the tenants' former public housing files but had not been moved to the Section 8 files.

Two of the five tenant files reviewed contained errors in either the family's total income or adjusted income. In one case, the Authority overstated the family's non-reimbursable childcare expenses, which reduced the family's income. In another case, the Authority over-reported family income and overstated an income adjustment. These errors resulted in incorrect housing assistance payments to the owners, as well as incorrect rents paid by the tenants.

In one file, the Authority failed to retain a copy of the initial lease between the owner and the tenant. HUD regulations require the Authority to retain a copy of the executed lease during the term of each assisted lease and for at least three years thereafter. As a result of this error, the Authority made \$12,679 in unsupported housing assistance payments on behalf of the tenant from October 30, 2009 through September 1, 2011.

## **SCENARIO EIGHT**

### **The Authority failed to distribute utility allowance checks as required.**

In one case, Authority management withheld utility allowance checks on the suspicion that the tenant was not claiming all of his income. Management should have given the tenants due process and followed its Section 8 administrative plan for determining whether the participant would be terminated from the program before withholding any utility allowance funds.



## SCENARIO NINE

### INTERNAL CONTROLS

Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to:

- Effectiveness and efficiency of operations
- Reliability of financial reporting
- Compliance with applicable laws and regulations

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

We determined that the following internal controls were relevant to our audit objectives:

- Program operations: Policies and procedures that management has implemented to reasonably ensure that a program meets its objectives.
- Compliance with laws and regulations: Policies and procedures that management has implemented to reasonably ensure that resource use is consistent with laws and obligations.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations; (2) misstatements in financial or performance information; or (3) violations of laws and regulations on a timely basis.

Based on our review, we believe that the following items are significant deficiencies:

- The Authority did not have controls in place to ensure that it complied with its public housing Consolidated Annual Contributions Contract (finding 1).
- The Authority did not have effective controls to ensure that it complied with the "buy American" requirement of the Recovery Act or complied with Authority and HUD procurement requirements (finding 2).
- The Authority did not have controls in place to ensure that it complied with capital fund obligation deadlines (finding 3).
- The Authority did not have controls for effective Section 8 administration (finding 4).

### HUD OIG FINDINGS

The Authority failed to administer its HUD-funded programs in accordance with requirements. We found indicators of noncompliance in every program area reviewed. The Authority did not comply with all requirements of its public housing Consolidated Annual Contributions Contract. Specifically, it willfully

abandoned its ABC Gardens Apartments site, failed to protect tenants' sensitive personally identifiable information, and failed to maintain complete and accurate records. As a result, the ABC Gardens appeared to be devalued, and tenants' personal information was unnecessarily placed at risk.

The Authority did not comply with the "buy American" requirement, did not publicly advertise, and did not conduct an independent cost estimate for its only Recovery Act contract. In addition, it did not maintain records supporting fair and open competition for two other procurements. As a result, it expended its entire \$315,372 Recovery Act grant for an ineligible procurement and could not support the eligibility of other expenditures totaling \$13,692.

The Authority could not support that it met its 24-month obligation deadline requirement for \$200,000 in unspent funds for its 2008 annual capital fund grant. As a result, \$450,955 in fiscal years 2010 and 2011 capital funds risk being recaptured by HUD and redistributed to other public housing agencies.

The Authority mismanaged its Section 8 Housing Choice Voucher program. Management failed to ensure that existing internal controls were understood by staff and followed. This failure created an environment resulting in or contributing to significant areas of noncompliance, including: (1) failure to support a determination of owner eligibility; (2) miscalculation of tenant income and utility allowances; (3) failure to determine rent reasonableness; (4) incomplete housing quality inspection forms; (5) failure to document head of household's citizenship; and (6) failure to retain a copy of a lease agreement resulting in \$12,679 in unsupported housing assistance payments.

These deficiencies occurred because management was either unaware of HUD regulations and its own procedures or chose to ignore them.

We recommend that the director of the ABC Office of Public Housing (1) determine whether the Authority should be declared in substantial default with its public housing Consolidated Annual Contributions Contract; (2) explore the feasibility of possible dissolution of the Authority or absorption of Authority activities by another public housing agency; (3) require the Authority to repay the U.S. Treasury \$315,372 from non-federal funds due to noncompliance with the "buy American" provision of the Recovery Act; (4) require the Authority to provide documentation to support that \$200,000 in 2008 capital funds was properly obligated; and (5) require the Authority to properly train its staff on HUD Section 8 requirements as well as its own Section 8 policies and procedures.

We recommend that the director of the Departmental Enforcement Center, in coordination with the director of HUD's ABC Office of Public Housing, take appropriate administrative action against the Authority's former executive director for badly mismanaging its operations.

## Appendix 5: Web Resources

1. The PHA Plan template, certification forms, and technical instructions for their use are available from HUD's PHA Plans website found at:  
<http://www.hud.gov/offices/pih/pha/templates/index.cfm>.
2. [HUD-50075.1 MS-Word](#)
3. [HUD-50075.2](#) (MS Word)
4. [HUD-50077-CR Civil Rights Certification for Qualified PHAs](#)
5. [HUD-50077-SL State and Local Certification of Consistency with Consolidated Plan](#)
6. Form HUD-50070—Certification for a Drug-Free Workplace (Capital Fund only):  
<http://www.hud.gov/offices/pih/pha/certifications/50070.pdf>
7. SF-LLL, Disclosure of Lobbying Activities (Capital Fund only):  
<http://www.whitehouse.gov/omb/grants/sflllin.pdf>
8. SF-LLL-A, Disclosure of Lobbying Activities Continuation Sheet (Capital Fund only):  
<http://www.gsa.gov/portal/forms/download/116434>
9. Notice PIH 2007- 28: “Changes in the Project Numbering System and Process for Requesting Changes in Project Identifications.”:  
<http://www.hud.gov/offices/pih/publications/notices/07/pih2007-28.pdf>
10. Notice PIH 2006-10: provides instructions and guidance for “Identification of Projects for Asset Management.”:  
<http://www.hud.gov/offices/pih/publications/notices/06/pih2006-10.pdf>
11. Asset Management Website:  
<http://www.hud.gov/offices/pih/programs/ph/am>
12. HUD Energy Improvements Checklist for PHAs: designed with smaller PHAs in mind, this checklist provides a comprehensive list of cost-effective energy efficiency improvements that PHAs can make:  
<http://www.hud.gov/offices/pih/programs/ph/phecc/engimpvchk.doc>
13. [Public Housing Environmental & Conservation Clearinghouse](#): resources and ideas for Public Housing Agencies to incorporate renewable energy and green construction practices in public housing.
14. Public Housing Mortgage Program:  
[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/programs/ph/capfund/phmp](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/capfund/phmp)
15. Mixed Finance:  
[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/programs/ph/hope6/mfph](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/hope6/mfph)
16. Inventory Management System/PIH Information Center FAQs:  
[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/systems/pic/fag](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/systems/pic/fag)
17. HUD Office of Inspector General Consolidated Audit Guides:  
<https://www.hudoig.gov/reports-publications/audit-guides/consolidated-audit-guides>

## Appendix 6: Day 5 Pre-Test Answer Key

1. Only Non-Qualified PHAs must do a five-year plan every five years.
  - a) True
  - b) **False**
2. All of the items below define a Qualified PHA except:
  - a) **Has a combined unit total of 250 or fewer public housing units and Section 8 vouchers**
  - b) Is not designated “troubled” under Section 6(j)(2) of the 1937 Act, the Public Housing Assessment System (PHAS), as a troubled public housing agency during the prior 12 months
  - c) Has a combined unit total of 550 or fewer public housing units and Section 8 vouchers
  - d) Does not have a failing score under the Section 8 Management Assessment Program (SEMAP) during the prior 12 months
3. RAB comments and the PHA response are part of the annual plan.
  - a) **True**
  - b) False
4. The penalty for failure to obligate 90 percent of a Capital Fund grant is to recapture the unobligated funds after the obligation end date.
  - a) **True**
  - b) False
5. Data used to calculate the CFP formula include all except (select all that apply):
  - a) # of elderly units
  - b) **Date of full availability (DOFA)**
  - c) # of non-dwelling units
  - d) # of occupants per unit
  - e) # of removed units
  - f) # of standing units
6. All of the following are eligible costs under the Capital Fund except (select all that apply):
  - a) Development
  - b) Demolition and conversion
  - c) **Direct provision of social services**
  - d) Physical improvements
  - e) Resident homeownership
7. A PHA qualified for an emergency grant from the set-aside for Emergency and Natural Disasters in the Capital Fund, if:
  - a) The emergency impacts the immediate health or safety of residents
  - b) The PHA has no funds in its contingency line item on any of its open grants
  - c) The PHA has exhausted all unobligated funds and does not have any resources to address the emergency



- d) **All of the above**
  - e) a and b only
  - f) a and c only
8. How many years from the date funds are made available does the PHA have to obligate 90 percent of a Capital Fund grant?
- a) 4 years
  - b) **2 years**
  - c) 1 year
9. A significant amendment to the PHA plan requires:
- a) A public hearing
  - b) Consultation with the RAB
  - c) 45-day notice of a public hearing
  - d) c and d
  - e) a and b
  - f) **All of the above**
10. A Qualified PHA must submit a signed and dated original and two copies of the ACC amendments for each Capital Fund Grant.
- a) True
  - b) **False**

## Appendix 7: Course Evaluation

### LEAD THE WAY: INTRODUCTION TO FINANCIAL MANAGEMENT

Instructor: \_\_\_\_\_

Training Location: \_\_\_\_\_ Date: \_\_\_\_\_

**Public reporting burden** for this collection of information is estimated to be 2 minutes per response, including the time for reviewing instructions, and reviewing and completing the collection of information. This information will be used by HUD to determine the effectiveness of the training content and tools, instructors, training environment, and training benefits. The response to this information collection is voluntary. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. The information collected does not lend itself to confidentiality.

**Instructions:** Upon completion of the course, training participants are strongly encouraged to complete this evaluation form. Completing this form will assist HUD in assessing whether or not this learning activity is the best approach for the training need. Please circle the response below which best describes your assessment of the training.

	Not Applicable	Strongly Disagree	Disagree	Can Not Decide	Agree	Strongly Agree
<b>SECTION I: COURSE EVALUATION</b>						
The course content matched the learning objectives.	N/A	1	2	3	4	5
The course length was sufficient to deliver the content.	N/A	1	2	3	4	5
The course design (i.e., materials and learning activities) encouraged my participation in the class.	N/A	1	2	3	4	5
The course provided opportunities to practice and reinforce what was taught.	N/A	1	2	3	4	5
The course information was at an appropriate level to understand the learning objectives.	N/A	1	2	3	4	5

	Not Applicable	Strongly Disagree	Disagree	Can Not Decide	Agree	Strongly Agree
<b>SECTION II: TRAINING TOOLS</b>						
The quiz questions helped me to learn the course information.	N/A	1	2	3	4	5
The learning aids (i.e. workbooks, hand-outs, role-playing exercises, PowerPoint slides) assisted my learning.	N/A	1	2	3	4	5
The technology equipment worked properly.	N/A	1	2	3	4	5
<b>SECTION III: INSTRUCTOR EVALUATION</b>						
The instructor was prepared for class.	N/A	1	2	3	4	5
The instructor was knowledgeable about the course content.	N/A	1	2	3	4	5
The instructor was responsive to questions and other needs.	N/A	1	2	3	4	5
The instructor presented the content in an interesting manner.	N/A	1	2	3	4	5
The instructor communicated well.	N/A	1	2	3	4	5
The instructor encouraged a participatory and interactive learning environment.	N/A	1	2	3	4	5
<b>SECTION IV: INSTRUCTIONAL ENVIRONMENTAL EVALUATION</b>						
The training facilities were suitable for learning.	N/A	1	2	3	4	5
There was adequate accommodation for any special needs.	N/A	1	2	3	4	5
The training location was easy to find.	N/A	1	2	3	4	5

	Not Applicable	Strongly Disagree	Disagree	Can Not Decide	Agree	Strongly Agree
<b>SECTION V: TRAINING BENEFIT</b>						
I needed training on this topic.	N/A	1	2	3	4	5
The training was relevant to improving the knowledge/skills I need to accomplish my job.	N/A	1	2	3	4	5
I believe the practical exercises were good simulations of the tasks that I actually perform on my job.	N/A	1	2	3	4	5
There was more than one training style used that was conducive to my learning style (i.e. straight lecture, lecture with visual aids and/or interaction).	N/A	1	2	3	4	5
<b>SECTION VI: TRAINING OVERALL</b>						
Overall, I am satisfied with the Training course.	N/A	1	2	3	4	5
Overall, I am satisfied with the instructor(s).	N/A	1	2	3	4	5
Overall, I am satisfied with the training environment.	N/A	1	2	3	4	5
Additional Comments:						
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