U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
CAPITAL FUND GUIDEBOOK TRAINING

CHAPTER 5: REPLACEMENT HOUSING FACTOR (RHF)/DEMOLITION & DISPOSITION TRANSITIONAL FUNDING (DDTF)
CHAPTER 5: TOPICS

- Replacement Housing Factor (RHF) Specifics.
- Demolition & Disposition Transitional Funding (DDTF) Transition.
REPLACEMENT HOUSING FACTOR (RHF)
SPECIFICS
BACKGROUND

- PHAs received Replacement Housing Factor (RHF) funds for development or acquisition of ACC units to replace ACC units lost through HUD-approved demolition or disposition.

- Capital Fund Rule, effective November 2013, created Demolition and Disposition Transitional Funding (DDTF) to replace RHF gradually over a 5-year period.

This presentation will define RHF and DDTF separately and describe the transition process.
HOW IS RHF/DDTF ELIGIBILITY DETERMINED?

- PHAs enter the date of disposition or demolition into the IMS/PIC system.
- The date of IMS/PIC entry is used to calculate RHF/DDTF eligibility:
  - Demolition – date of final payment to demolition contractor.
  - Disposition – date of deed or ground lease transfer of property ownership.
- June 30 - Reporting Date deadline.
Prior to July 1, 2013, PHAs were eligible for up to 10 years of RHF funding if they removed ACC units from their inventory.

- First Increment Grants – first five years of RHF grants
  - Reduced units count through HUD approved demo/dispo.

- Second Increment Grants – next 6-10 years of RHF, if eligible:
  - Obligate Capital Funds on time.
  - PHA Plan approved on time.
  - Leverage additional non-Capital Fund funds.
# Eligibility for 1st and 2nd Increments

<table>
<thead>
<tr>
<th>1st Increment RHF Eligibility</th>
<th>2nd Increment RHF Eligibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>PHA was automatically eligible for a First Increment RHF grant if it met the following requirements:</td>
<td>PHA was eligible to receive Second Increment RHF if continued to meet 1st Increment Eligibility requirements and the following requirements:</td>
</tr>
<tr>
<td>• PHA reported in IMS/PIC the removal of units from inventory due to HUD approved demolition or disposition.</td>
<td>• A commitment of funds (other than public housing funds), for replacement housing</td>
</tr>
<tr>
<td>• The PHA has not received funding for public housing units that will replace the lost units from Disposition Proceeds, or under Public Housing Development, HOPE VI, Choice Neighborhoods Initiative, or programs that otherwise provide for replacement with public housing units.</td>
<td>• Project-by-Project basis. For example, the PHA cannot count leverage requirement at Development A towards the leverage requirement at Development B.</td>
</tr>
<tr>
<td>• The PHA is not troubled.</td>
<td>• Leverage generated for a First Increment RHF grant counts only if such funds are used in the same development as the Second Increment RHF grant.</td>
</tr>
</tbody>
</table>
ELIGIBLE USES FOR RHF GRANTS

- Development of new public housing units (under ACC) including:
  - **Acquisition of additional units** from the private market
    - Units may or may not meet Uniform Physical Condition Standards (UPCS);
    - Can be rehabilitated to meet UPCS;
  - **Construction of new ACC units:**
    - Conventional public housing new construction
    - Mixed finance public housing new construction;
  - **On-site and off-site infrastructure** related to the above activities; and,
  - **Administrative costs** up to 3 percent of the total of Capital Funds in a development project budget can be in BLI 1410-Administration.
Off and On-Site Infrastructure

- On-site and off-site infrastructure refers to work related to the above activities, e.g. sanitary sewers, storm sewers, water, electric, and gas distribution systems.

- PHAs can use RHF funds for connections from the street to the dwelling structure.

- PHAs cannot use RHF funds for connections and systems that will benefit non-public housing units.
PHAs participating in Rental Assistance Demonstration (RAD) program may use RHF funds for eligible activities as described in RAD notice.

INELIGIBLE USES FOR RHF GRANTS INCLUDE:

- Modernization of ACC units;
- Demolition of ACC units - unless the PHA will build new ACC units on the same site;
- Development of homeownership units; and
- Uses that are eligible under BLI 1406-Operations and BLI 1408-Management Improvements.

CFFP financing to carry out non-development activities.
OBLIGATION AND EXPENDITURE OF RHF FUNDS

• RHF grants ordinarily operate under the same rules as formula grants:
  • 24 months from Obligation Start Date (OSD) to obligate 90% of grant.
  • 48 months from OSD to expend 100% of grant.

  BUT...

• PHAs can “accumulate” a series of first increment or second increment grants, by submitting an RHF plan.
  • Obligation and expenditure end dates for all grants in the accumulation are those of the most recent grant.

## RHF Accumulation - Example

- The Anytown Housing Authority has 5 years of a 1st increment of RHF grants.

- The Obligation and Disbursement End Dates **prior to accumulation** of the grants are as follows:

<table>
<thead>
<tr>
<th>Grant</th>
<th>Obligation End Date</th>
<th>Disbursement End Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>AT36R00150113</td>
<td>9/8/2015</td>
<td>9/8/2017</td>
</tr>
<tr>
<td>AT36R00150114</td>
<td>5/12/2016</td>
<td>5/12/2018</td>
</tr>
<tr>
<td>AT36R00150115</td>
<td>4/12/2017</td>
<td>4/12/2019</td>
</tr>
<tr>
<td>AB36R00150116</td>
<td>4/1/2018</td>
<td>4/1/2020</td>
</tr>
</tbody>
</table>
The AHA submits an RHF Plan to the HUD Field Office requesting accumulated obligation deadlines as follows:

<table>
<thead>
<tr>
<th>Grant</th>
<th>Obligation End Date</th>
<th>Disbursement End Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>AT36R00150112</td>
<td>10/29/2018</td>
<td>7/29/2020</td>
</tr>
<tr>
<td>AT36R00150113</td>
<td>10/29/2018</td>
<td>10/29/2020</td>
</tr>
<tr>
<td>AT36R00150114</td>
<td>10/29/2018</td>
<td>10/29/2020</td>
</tr>
<tr>
<td>AT36R00150115</td>
<td>10/29/2018</td>
<td>10/29/2020</td>
</tr>
<tr>
<td>AB36R00150116</td>
<td>10/29/2018</td>
<td>10/29/2020</td>
</tr>
</tbody>
</table>
DEMOlITION & DISPOsITION
TRANSITION FUNDING (DDTF)
PHAs that removed ACC units from inventory on or after July 1, 2013, are eligible for 5 years of DDTF, but not for RHF grants. • Based on Capital Fund Rule, effective in November 2013.

DDTF funds are added to the regular Capital Fund formula grants and considered one grant, not separate grants.

DDTF fund rules are same as formula grants.

Eligible uses include:
• Modernization of existing ACC units;
• Development of new ACC units; and
• Any eligible formula grant activities.
A PHA is first eligible to receive DDTF funds in the FFY after it reports in PIC its removal of units. June 30 remains the cut-off date.

A PHA will not receive DDTF funds merely upon SAC approval of a Demo/Dispo application; PHA must complete the physical demolition of the units and then report in PIC the removal of its units before DDTF funds are awarded.

There is no device to indicate the portion of DDTF that is part of the Capital Fund formula grant.
No separate planning requirement for DDTF.

The PHA must include any activities to be funded with DDTF in its 5-Year Action Plan.
## RHF AND DDTF COMPARISON

<table>
<thead>
<tr>
<th>Comparison of RHF to DDTF</th>
<th>RHF</th>
<th>DDTF</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Accumulation</strong></td>
<td>Yes.</td>
<td>No. Same obligation and expenditure requirements as the Capital Fund formula grant.</td>
</tr>
<tr>
<td><strong>Eligible Activities</strong></td>
<td>Development of replacement public housing units.</td>
<td>Any Capital Fund eligible activity.</td>
</tr>
<tr>
<td><strong>Funding Delivery</strong></td>
<td>Stand-alone RHF grant each year; separate ACC Amendments.</td>
<td>Included in the PHA’s annual Capital Fund formula grant.</td>
</tr>
<tr>
<td><strong>Years of Funding</strong></td>
<td>5 or 10</td>
<td>5</td>
</tr>
</tbody>
</table>
RHF/DDTF TRANSITION

- PHAs that removed units on or after July 1, 2013:
  - Receive 5 years of DDTF in their formula grants.
  - Do not receive RHF grants for removal of units.
- PHAs that received Years 1-4 of first increment RHF grants in FFY 2013:
  - Receive first increment RHF grants through Year 5.
  - Then DDTF for Years 6-10.
- PHAs that received Years 1-4 of second increment RHF grants in FFY 2013:
  - Receive second increment RHF grants through Year 5.

All the rules regarding eligible and ineligible uses of RHF funds remain in effect during the transition years.

Please refer to the chart on the following page for transition details.
## Summary of RHF to DDTF Transition

<table>
<thead>
<tr>
<th>Status</th>
<th>Applicable RHF Funds.</th>
<th>Applicable DDTF Funds.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>PHAs that removed units on or after July 1, 2013</strong></td>
<td>None.</td>
<td>5 Years.</td>
</tr>
<tr>
<td><strong>PHAs that received Years 1-4 of First Increment RHF funding in FFY 2013</strong></td>
<td>For the remaining years of the First Increment RHF grants.</td>
<td>5 Years (if eligible for Second Increment RHF grants).</td>
</tr>
<tr>
<td><strong>PHAs that received Years 6-9 of Second Increment RHF funding in FFY 2013</strong></td>
<td>For the remaining years of the Second Increment RHF grants.</td>
<td>None.</td>
</tr>
<tr>
<td>-------</td>
<td>---------</td>
<td>---------</td>
</tr>
<tr>
<td>Year 1</td>
<td>Year 1 of DDTF</td>
<td>Year 2 of DDTF</td>
</tr>
<tr>
<td>Year 2</td>
<td>Year 2 of 1st Incr RHF</td>
<td>Year 3 of 1st Incr RHF</td>
</tr>
<tr>
<td>Year 3</td>
<td>Year 3 of 1st Incr RHF</td>
<td>Year 4 of 1st Incr RHF</td>
</tr>
<tr>
<td>Year 4</td>
<td>Year 4 of 1st Incr RHF</td>
<td>Year 5 of 1st Incr RHF</td>
</tr>
<tr>
<td>Year 5</td>
<td>Year 5 of 1st Incr RHF</td>
<td>DDTF (to replace Year 1 of 2nd Incr RHF)</td>
</tr>
<tr>
<td>Year 6</td>
<td>DDTF (to replace Year 1 of 2nd Incr RHF)</td>
<td>DDTF (to replace Year 2 of 2nd Incr RHF)</td>
</tr>
<tr>
<td>Year 7</td>
<td>Year 2 of 2nd Incr RHF</td>
<td>Year 3 of 2nd Incr RHF</td>
</tr>
<tr>
<td>Year 8</td>
<td>Year 3 of 2nd Incr RHF</td>
<td>Year 4 of 2nd Incr RHF</td>
</tr>
<tr>
<td>Year 9</td>
<td>Year 4 of 2nd Incr RHF</td>
<td>Year 5 of 2nd Incr RHF</td>
</tr>
<tr>
<td>Year 10</td>
<td>Year 5 of 2nd Incr RHF</td>
<td></td>
</tr>
</tbody>
</table>
Wrap Up!
CHAPTER 8: EMERGENCY, NON-PRESIDENTIALLY DECLARED NATURAL DISASTER AND SAFETY/SECURITY GRANTS
CHAPTER 8: TOPICS

- Emergency, Non-Presidentially Declared Natural Disaster Grants
- Emergency Safety/Security Grants
EMERGENCY, NON-PRESIDENTIALLY DECLARED NATURAL DISASTER GRANTS
Emergency and Non-Presidentially Declared Natural Disaster funds are Congressionally Mandated set aside of Capital Fund Program (CFP).

- Authorized by annual appropriation.
- Permits HUD to use a *portion* of the set-aside for safety and security funding.
Grants cover capital needs arising from emergencies and non-presidentially declared natural disasters within current fiscal year (FY) of request.

First-come, first-serve.

Insurance coverage, which is required by the ACC, should be a PHA’s primary source of funding for repair or replacement costs associated with Emergencies and Non-Presidentially Declared Natural Disasters.
What is an Emergency?

- An unforeseen or unpreventable event or occurrence that poses an immediate threat to the health and safety of the residents.

- Must be corrected within one year of funding.

- Examples are sewer and plumbing line failures, boiler and chiller system failures, severe electrical problems, foundation shifting, elevator failures.
WHAT IS A DISASTER?

- An extraordinary event, such as an earthquake or hurricane, affecting public housing property owned and managed by a PHA.
- Excludes areas covered by a Presidentially-Declared Natural Disaster (i.e. Hurricane Sandy).
- PHAs are eligible for permanent reconstruction assistance through the Federal Emergency Management Agency (FEMA) for Presidentially-Declared Natural Disasters.
  - If the PHA or Field Office is unsure whether the affected Public Housing Property is located in a Presidentially-Declared disaster area, it should contact Headquarters for a determination.
EMERGENCY AND NATURAL DISASTER GRANTS – ELIGIBLE USES

- Costs associated with the repair or replacement of a public housing project - only damaged within the same FY as the request and as result of an Emergency or Natural Disaster in a non-presidentially declared disaster area.

- Relocation and the cost to provide temporary housing to public housing residents (i.e. hotel, moving van rental, temporary storage, boxes.) until public housing units can be repaired.
EMERGENCY AND NATURAL DISASTER GRANTS – INELIGIBLE USES

➢ Cost of routine and preventative maintenance, such as routine unit turnaround, janitorial services, elevator service, extermination of rodents and pests, etc.
  • Emergency cannot result from lack of routine maintenance.

➢ Transfers to Operations:
  • Operations costs are not capital needs!

If a PHA routinely transfers the maximum amount of Capital Funds to operations and finds itself in need of emergency funds – alter policies to convert a lower percentage of Capital Funds to operations.
Management Improvements (BLI 1408):
- Upgrades to PHA computer systems, adding security guards, purchase new software, etc.

Cost for repairs of a public housing project that were not due to damage from an Emergency or Natural Disaster.
Emergency and Natural Disaster Grants – Ineligible Uses, Cont.

- Items normally replaced as part of a modernization effort, but not required due to the emergency.

- Roof damaged by disaster
- Emergency grant can repair
- Emergency grant CANNOT repair
## Emergency and Disaster Grants Application Requirements

<table>
<thead>
<tr>
<th>Sections</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transmittal Letter</td>
<td>• From PHA submitting application</td>
</tr>
</tbody>
</table>
| Narrative           | • Public housing projects(s) affected by the natural disaster or emergency,  
                      • Date of the natural disaster or emergency,  
                      • Detailed description of the damages caused by the natural disaster or emergency  
                      • Activities to correct emergency/disaster caused conditions  
                      • Sources of available funds  
                      • Demonstration that PHA does not otherwise have the funds to correct. |
| Cost Estimate       | Independent Third Party Damage/Cost Estimate                                                                                              |
| Certifications      | • Certification for Contracts, Grants, Loans and Cooperative Agreements (Form HUD-50071)  
                      • PHA Certifications of Compliance with the PHA Plans and Related Regulations (Form HUD-50077) for “non-qualified” PHAs  
                      • Civil Rights Certification (Form HUD-50077-CR) for “Qualified” PHAs                                                      |
<table>
<thead>
<tr>
<th>Sections</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual Statement</td>
<td>Annual Statement for Emergency/Disaster Grant (Form HUD-50075.1, Sections I and II)</td>
</tr>
<tr>
<td>Standard Forms</td>
<td>Standard Form (SF-LLL), Disclosure of Lobbying Activities</td>
</tr>
<tr>
<td>Budget</td>
<td>Identify all sources of available funds (e.g., insurance proceeds, unobligated capital funds, other Federal or State assistance, etc. in HUD required format)</td>
</tr>
<tr>
<td>Insurance Letter</td>
<td>Written statement or letter from the PHA’s insurance company attesting that the insurance company will not approve claims for any of the damage described in the PHA’s narrative</td>
</tr>
<tr>
<td>PHA Certification</td>
<td>Statement of PHA certifying that is has exhausted its Capital Funds or has committed those funds to other public housing activities or capital improvements</td>
</tr>
</tbody>
</table>
See Handout.
EMERGENCY AND NATURAL DISASTER ROLES - PHA

- Assess the needed work items resulting from an emergency.

- Work with the Field Office to prepare HUD-compliant application.

- Submit a complete application to Field Office.

- Complete environmental review (24 CFR Part 58) or request HUD complete an environmental review (24 CFR Part 50).
✓ Sign CF ACC Amendment and return the copies to the Field Office.

✓ Submit effective Declarations of Trust (DOTs).

✓ Obligate and expend funds within the required timelines.

✓ Submit grant closeout documents to the Field Office.
Facilitate and assist Headquarters (HQ) with receipt, review, approval, and monitoring of Emergency and Natural Disaster Grants.

Review application for completeness, eligibility, and appropriateness of proposed costs.

Forward memo of recommendation (approval or rejection) to the OCI Director in Headquarters.

Liaise between HQ and PHA during review.

Countersign CF ACC amendment executed by the PHA.

Confirm PHA has current and effective DOTs on file.

Monitor the obligation and expenditure of grant funds.

Monitor the grant through closeout.
EMERGENCY AND NATURAL DISASTER ROLES - HEADQUARTERS

- Assign, distribute, and record funds in HUD’s systems.
- Oversee and monitor the submission, review, and approval of grant applications.
- Determine whether a PHA’s request meets the requirements for Emergency or Natural Disaster Grant.
- Approve the request subject to availability of funds, in the order in which requests are received and deemed appropriate.
- Issue an approval letter, field office memo, and CF ACC amendment.
- Ensure funds are committed and process ACC to obligate funding.
## DISASTER APPLICATION TYPES

<table>
<thead>
<tr>
<th>Preliminary Disaster Application</th>
<th>Final Disaster Application</th>
</tr>
</thead>
<tbody>
<tr>
<td>Damages pose immediate threat to resident health and safety; and/or</td>
<td>No immediate threat to resident health and safety; and</td>
</tr>
<tr>
<td>Immediate repairs required to preserve the property; and</td>
<td>No immediate repairs required to preserve the property; and</td>
</tr>
<tr>
<td>No third-party cost estimate; Have initial cost estimate (not detailed); and/or</td>
<td>Detailed, independent third-party cost estimate; and</td>
</tr>
<tr>
<td>Other sources of funds not known (State funds, insurance proceeds, FEMA.)</td>
<td>Other sources of funds are known</td>
</tr>
</tbody>
</table>
Preliminary Disaster Application

Urgent work items are needed to ensure the safety of public housing residents or preserve public housing property.

PHA has not yet compiled information for application (such as detailed third party damage assessment or insurance proceeds or state and local funds).

Request should reasonably identify damage caused by the Natural Disaster and the costs for public housing resident protection and project preservation.

Urgent Work Item Examples include:

- Shoring up buildings to prevent collapse after earthquake.
- Relocating residents from uninhabitable units.
- Temporary roof covers to prevent water damage to units.
### Emergency Grant vs. Non-Presidentially Declared Natural Disaster Grant

<table>
<thead>
<tr>
<th>Emergency Grant</th>
<th>Non-Presidentially Declared Natural Disaster Grant</th>
</tr>
</thead>
<tbody>
<tr>
<td>12 months to obligate 90%. <strong>HUD will recapture unobligated portion if PHA fails OED.</strong></td>
<td>24 months to obligate 90%. <strong>HUD will recapture unobligated portion if PHA fails OED.</strong></td>
</tr>
<tr>
<td>24 months to expend 100%. <strong>HUD will recapture undisbursed portion if PHA fails EED.</strong></td>
<td>48 months to expend 100%. <strong>HUD will recapture undisbursed portion if PHA fails EED.</strong></td>
</tr>
<tr>
<td>Closely monitored by the FO</td>
<td></td>
</tr>
</tbody>
</table>

- HUD Field Office will send an ACC Amendment to recapture the unobligated/unexpended portion of the grant.
- The HUD HQ OCI will recapture the balance of unobligated/unexpended funds in LOCCS upon receipt of executed ACC Amendment.
KNOWLEDGE CHECK: EMERGENCY AND DISASTER

Question 1: My PHA sustained roof damage from a severe thunderstorm. I have received my insurance proceeds which are inadequate to cover damages. I have an initial damage assessment. I do not have any immediate repair needs or to preserve the property and no relocation needs. The field office confirmed I am not in a presidentially declared disaster area. Can I submit a Disaster application?

Question 2: What is the difference between the preliminary application and the final?
Answer 1: No, you do not have any immediate needs to preserve the property for an initial disaster application and do not have the detailed third party independent cost estimate to submit a final disaster application.

Answer 2: The preliminary application is when damages pose immediate threat and therefore the work must start immediately. While the Final application is when there is no immediate threat and a third cost estimate is required and other sources of funding are identified.
EMERGENCY SAFETY AND SECURITY GRANTS
EMERGENCY SAFETY AND SECURITY GRANTS

- A subset of Emergency and Natural Disaster Grants.
- For capital improvements related to a crime emergency at PHA occurring in the FY of funding.
  - FY16 funding requirements in PIH Notice 2014-09.
- Grants limited to $250,000 per PHA (one time funding per project).
- HUD will only accept one application per PHA, per federal fiscal year (given the limited funding).

NOTE: A long-standing problem is not a Safety and Security Emergency because it is not unforeseen and it is likely preventable.
<table>
<thead>
<tr>
<th>Eligible Costs</th>
<th>Ineligible Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Security systems/cameras, including recorders</td>
<td>Salaries for PHA staff, including security staff</td>
</tr>
<tr>
<td>Fencing</td>
<td>Patrol Cars</td>
</tr>
<tr>
<td>Lighting Systems</td>
<td>Security patrol contracts or payment to local law enforcement for additional security patrols</td>
</tr>
<tr>
<td>Emergency Alarm Systems</td>
<td>Administrative Costs (BLI 1410)</td>
</tr>
<tr>
<td>Window Bars</td>
<td>Transfers to Operations (BLI 1406)</td>
</tr>
<tr>
<td>Deadbolt Locks</td>
<td></td>
</tr>
<tr>
<td>Doors</td>
<td></td>
</tr>
</tbody>
</table>
A PHA is ineligible to receive safety and security funding:

- If it has previously received safety and security funding for the same development(s) for which funds are requested.
- If it has any cause determinations, lawsuits, letters or findings that have not been resolved to HUD’s satisfaction.
# Emergency Safety and Security Grants Application

<table>
<thead>
<tr>
<th>Sections</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transmittal Letter</td>
<td>• From PHA submitting application</td>
</tr>
</tbody>
</table>
| Narrative            | • Describe how PHA has experienced threat to health and safety  
                        • Most recent crime data (FY of grant) of PHA’s locality from recognized source                        |
| External Source      | • PHA officials, Resident Advisory Board; or,  
                        • Local community policing organizations; or,  
                        • Local officials.                                                                                   |
| Narrative            |                                                                                                                                                             |
| Standard Forms       | Standard Form (SF-LLL), Disclosure of Lobbying Activities                                                                                                   |
| Certifications       | • Certification for Contracts, Grants, Loans and Cooperative Agreements (Form HUD-50071)  
                        • PHA Certifications of Compliance with the PHA Plans and Related Regulations (Form HUD-50077)  
                        • Statement certifying PHA is in compliance with civil rights threshold requirements                |
<table>
<thead>
<tr>
<th>Sections</th>
<th>Description</th>
</tr>
</thead>
</table>
| HUD-50075.1 Parts I and II | • Must be specifically for the proposed Safety and Security work items  
                              • Cannot submit the current FY Capital Fund grant annual statement                           |
| Finance Document        | • Documented ability to partially finance proposed project  
                              • Description of activities to correct safety & security emergency and estimated cost  
                              • Documentation indicating supplemental funding if needed beyond grant amount.         |
### Emergency Grant

12 months to obligate 90%. **HUD will recapture unobligated portion if PHA does not meet OED requirements.**

24 months to expend 100%. **HUD will recapture undisbursed portion if PHA does not meet EED requirements.**

Closely monitored by the FO.
Question 1: I have previously received a safety and security grant. Can I apply again?

Question 2: How quickly must I obligate and expend my Safety and Security grant?
Answer 1: Yes, as long as the project/projects for which you are applying has/have not been previously funded.

Answer 2: You have 12 months to obligate at least 90% of the funds and 24 months to expend 100%.
Wrap Up and Questions

Wrap Up!
CHAPTER 9: TOPICS

- PHA Development Activity – Sources/Types; Requirements; Submissions
- HUD Review of Development Proposals
- Field Office and Mixed-Finance
PHA DEVELOPMENT ACTIVITY
METHODS OF DEVELOPMENT

- Conventional Development:
  - New Construction:
    - Conventional – sealed bid.
    - Turnkey – competitive proposals.
    - Force Account – PHA staff.
  - Acquisition:
    - With rehabilitation.
    - Without rehabilitation.

- Mixed Finance:
  - Project owned by entity other than PHA.
  - Includes a mix of units and financing.
  - Typically includes Low Income Housing Tax Credits.
DEVELOPMENT PROCESS OVERVIEW

1. Select Site.
2. Update Annual Plan.
3. Consult with Residents.
4. Submit Acquisition Proposal, if necessary.
5. Submit Development Proposal.
6. Establish Project in PIC.
7. Execute DOTs/DORCs.
8. Establish DOFA.
**General Requirements**

- **Faircloth Limitation:**
  - PHA may not use public housing funds to pay for development of public housing units that will increase the number of public housing units owned/operated by the PHA since 10/1/99.
Limitation on the Cost of New Construction:

- No new construction unless cost is less than the cost of acquiring existing units and converting to public housing
- PHAs must demonstrate compliance by submitting:
  1) A cost comparison analysis OR
  2) Documentation of insufficient housing in neighborhood. Sources of documentation include:
     A) Multiple Listing Service.
     B) Real Estate Ads in newspapers.
     C) Market analysis.
     D) Statements from brokers.
     E) Local construction costs.
GENERAL REQUIREMENTS, CONTINUED

- Site and Neighborhood Standards:
  - Review done by the Public Housing FHEO at Field Office.
  - Required for all site acquisition and PH development.
  - Assesses the suitability of the site.
  - Assesses the characteristics of the neighborhood:
    - Concentration of minorities.
    - Promotes greater choice of housing.
    - Environmentally safe.
    - Proximity to amenities, jobs, transportation.
  - Approval required prior to HUD approval of Development/Acquisition Proposal.
Cross-Cutting Federal Requirements:

- Relocation.
- Uniform Relocation Act.
- Procurement.
- Davis-Bacon.
- Environmental review – NEPA, NHPA/106.
  - Must be completed prior to Development/Acquisition Proposal approval.
MIXED-FINANCE (MF) DEVELOPMENT

- Development of public housing units which will be owned in whole or part by an entity other than a PHA.

- Includes a mix of units:
  - PH, PBV, LIHTC, HOME, unrestricted.

- Includes a mix of financing:
  - PH, LIHTC, HTC, CDBG, City, State, FHLB.

- HQ Office of Public Housing Investments manages mixed-finance projects.
New Orleans Project:

Budget: $11 M Public Housing Funds
$22 M Private Funds
$17 M Other Public Funds
$50 M Total
MIXED-FINANCE REQUIREMENTS

- **Ownership Structure:**
  - Limited Partnership (LP) or Limited Liability Corporation (LLC).

- **Role of the PHA:**
  - May be part of ownership or not.
  - Executes an agreement with the Owner.
  - Passes through Operating Subsidy.
  - May or may not manage the PH units.
  - Instrumentality or Affiliate.
Pro Rata Share:
• Cannot use PH funds for non-PH units.
• Test: % of PH funds cannot exceed % of PH units.

Test Example:
120 Units Total
  50 public housing (42%)
  70 non-public housing (58%)

$22,000,000 Total Cost
  $9,240,000 PH Max (42%)
Mixed-Finance Requirements, Continued

- Procurement – Special Provisions:
  - Select development partners via RFQ.
  - Competitively selected partners not subject to Federal Procurement Regulations

- Identity of Interest:
  - Relationship between developer and general contractor.
  - Requires HUD approval.
  - PHA must submit independent cost estimate.
MIXED-FINANCE REQUIREMENTS, CONTINUED

- Safe Harbor Standards:
  - Sets limits on specific fees and costs.
  - Developer & Contractor Fees.
  - Property Management Fees.
  - Administrative Costs.
  - Fees in line with industry standards.

Ref: Cost Control and Safe Harbor Standards for Rental Mixed-Finance Development, revised April 9, 2003
PHAs must prepare and submit a Development Proposal.

Must be approved prior to moving forward with development.

Applies to all types of development:
- New construction.
- Acquisition.
- Conventional.
- Mixed-finance.

Submitted and approved by the Field Office, except mixed-finance.
DEVELOPMENT PROPOSAL CONTENTS

- Project Description
- Site Information
- Participant Description
- Development Schedule
- Accessibility
- Project costs
- Local Cooperation Agreement and Real Estate Taxes
- Environmental Requirements
- Market Analysis
- Program Income and Fees
Mixed-Finance Requirements

- Rental Term Sheet (new template being developed)
- Evidentiary Documents submitted first in draft form
- Copies of executed documents submitted after closing
- No PH funds released until executed documents approved
SITE ACQUISITION PROPOSAL

- Required if PHA needs to acquire land for future development.
- Only for vacant land or land with vacant structures, slated for demolition.
- A Development Proposal still required.
- A Declaration of Trust must be placed on the property.
- Not required if no public housing funds will be used.
SITE ACQUISITION PROPOSAL

- Justification
- Description
- Site and Neighborhood Standards
- Zoning
- Appraisal
- Schedule
- Environmental Review
- URA Real Property Acquisition Requirements
- Approved by the Field Office
HUD Review of Development Proposals
REVIEW AND APPROVAL OF NON-MF PROJECTS

- FO reviews Development Proposal
- FO sends approval letter
- FO works with PHA to set up project in PIC
- PHA records DOT on property

Following DOFA PHA submits HUD-52423

I Year after project completion PHA submits HUD-52427 (ADCC) or HUD-52484 (ADCB)
### Sample Development Cost Certificate

**Actual Development Cost Certificate**

<table>
<thead>
<tr>
<th>Name of Public Housing Agency (PHA)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

The PHA hereby certifies to the Department of Housing and Urban Development as follows:

1. That the total amount of the Development Cost (herein called the “Actual Development Cost”) of the Project is $_________ which amount is shown on the attached Statement of Actual Development Cost,

2. That all development work in connection with the Project has been completed.

3. That the entire Development Cost or liabilities therefor incurred by the PHA have been fully paid.

4. That there are no uncharged mechanics’ liens, mortgages, or parent company’s liens against such project on file in any public office where the same should be filed in order to be valid against such project.

5. That the time in which such liens could be filed has expired.

---

### Development Cost Budget/Statement

**Development Cost Budget/Statement**

<table>
<thead>
<tr>
<th>PHA Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>23</td>
</tr>
</tbody>
</table>

No financial or technical assistance may be provided to a project pursuant to an Annual Contributions Contract unless a PHA Proposal, including a development cost budget, has been submitted (see OMB No. 2571-017).

#### Budget

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Account Classification</th>
<th>Budget Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Site Improvement</td>
<td>140B</td>
<td>$_________</td>
</tr>
<tr>
<td>2. Building Construction</td>
<td>140A</td>
<td>$_________</td>
</tr>
<tr>
<td>3. Equipment</td>
<td>140C</td>
<td>$_________</td>
</tr>
<tr>
<td>4. Other</td>
<td>140D</td>
<td>$_________</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td>$_________</td>
</tr>
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</table>

#### Final Development Cost Statement

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Account Classification</th>
<th>Final Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Site Improvement</td>
<td>140B</td>
<td>$_________</td>
</tr>
<tr>
<td>2. Building Construction</td>
<td>140A</td>
<td>$_________</td>
</tr>
<tr>
<td>3. Equipment</td>
<td>140C</td>
<td>$_________</td>
</tr>
<tr>
<td>4. Other</td>
<td>140D</td>
<td>$_________</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td>$_________</td>
</tr>
</tbody>
</table>

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For HUD Use Only

**Recommended for Approval by**

<table>
<thead>
<tr>
<th>Name of Authorized Officer</th>
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</table>

**Approved by**

<table>
<thead>
<tr>
<th>Name of Authorized Officer</th>
</tr>
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<tr>
<td></td>
</tr>
</tbody>
</table>
REVIEW AND APPROVAL OF MF PROJECTS

PHA submits Development Proposal/Draft Evidentiary Documents to OPHI

OPHI reviews proposal/ documents w/FO asst

OPHI issues approval letter/authorizes closing

PHA submits final Evidentiary Documents to OPHI

OPHI approves final documents/ releases funds to project
## Review of Mixed-Finance Evidentiary Materials

<table>
<thead>
<tr>
<th>Document</th>
<th>Source</th>
<th>Review</th>
</tr>
</thead>
<tbody>
<tr>
<td>MF ACC Amendment</td>
<td>Model Doc</td>
<td>OPHI</td>
</tr>
<tr>
<td>R&amp;O Agreement</td>
<td>PHA</td>
<td>OPHI</td>
</tr>
<tr>
<td>DORC</td>
<td>Model Doc</td>
<td>OPHI</td>
</tr>
<tr>
<td>Ground Lease</td>
<td>PHA</td>
<td>OPHI</td>
</tr>
<tr>
<td>Certifications &amp; Assurances</td>
<td>Model Doc</td>
<td>OPHI</td>
</tr>
<tr>
<td>Title Policy/Survey</td>
<td>PHA</td>
<td>FO</td>
</tr>
<tr>
<td>Management Docs</td>
<td>PHA</td>
<td>FO</td>
</tr>
<tr>
<td>Legal Opinion</td>
<td>PHA</td>
<td>OPHI</td>
</tr>
</tbody>
</table>
AMENDMENT OF DEVELOPMENT PROPOSALS

- HUD must approve any material change to an approved Development Proposal.
- Material Change includes:
  - A change in number of public housing units.
  - A change greater than 10% of public housing bedrooms.
  - A change greater than 10% of the total project cost or financing.
  - A change in site.
- PHAs must submit amendments to the Field Office or OPHI for mixed-finance.
Pre-Development Costs:

- Includes soft costs and approved demo.
- For non-mixed finance, PHAs may spend up to 5% of public housing funds without HUD approval for predevelopment.
- For mixed-finance, HUD approval required prior to spending public housing funds for predevelopment.
FUNDING AND DISBURSEMENTS, CONTINUED

- Standard Drawdown Requirements
- Special Disbursement Requirements and Issues
Mixed-Finance:

- No public housing funds disbursed until final evidentiary documents are approved (except predevelopment funds).
- Once approved, housing authorities may disburse funds in accordance with the approved project budget.
- Upon completion of the project, the ratio of PH to non-PH funds must be as reflected in the budget.
Wrap Up and Questions
U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CAPITAL FUND GUIDEBOOK TRAINING

CHAPTER 10: DEMONSTRATION PROGRAMS – RAD AND MTW
CHAPTER 10: TOPICS

- Rental Assistance Demonstration (RAD)
- Moving to Work (MTW)
RENTAL ASSISTANCE DEMONSTRATION (RAD) PROGRAM
Rental Assistance Demonstration (RAD)

- Authorized by the 2012 Appropriations Act, as amended
- Tool to preserve/improve public housing properties and address backlog of deferred maintenance.
- Units move to a Section 8 platform with a long-term contract.
- Contract must be renewed, thereby ensuring permanent affordability of the units.
- Residents pay 30% of income to rent and maintain same basic rights as in public housing.
- RAD Resource Desk website: www.radresource.net
PHAs may apply to convert:

- Single project.
- PHA-defined portfolio of projects.
- Multi-phase project.
- Set of projects which incorporate rent flexibilities such as rent bundling or MTW fungibility.

Begin with submission of an application to the RAD office at HUD HQ.

Upon HUD approval of application PHA executes a Commitment to enter into a Housing Assistance (CHAP).
After CHAP, the PHA has:
- 30 days to enter RAD PIC removal request.
- 180 days to submit the Financing Plan.

At Financing Plan approval, PHA is issued RCC (RAD Conversion Commitment) – 2 weeks to execute.

RCC is for 90 days.

Most transactions close within 45-60 days following RCC execution.

For more information, please refer to the RAD Notice at:
Disclosures per RAD Notice (PIH 2012-32, Rev-2):

- Significant Amendment to Capital Fund 5-Year Action Plan submission (Chapter 3 - Guidebook).
- Complete RAD Physical Condition Assessment (PCA) (If rehabilitation planned).
- Reduction of current/future Capital Fund grants.
- Estimate of current Capital Fund grants associated with proposed RAD project.
- Estimate of impact on PHA’s current 5-Year Action Plan.
- Impact on existing CFFP or RHF funds, if any.
CAPITAL FUND USES UNDER RAD

- Use public housing funds to support predevelopment costs for RAD conversion up to $150,000.

- Prepare an amended Capital Fund Budget for the applicable annual grant in order to use some or all of it for a RAD conversion.

- May retain Capital Funds for units that remaining in the public housing inventory and do not convert to RAD:
  - Submit a budget revision requesting transfer of Capital Funds designated for RAD units to BLI 1503 and 1504.
  - Retain remaining Capital Funds in appropriate BLIs.
Capital Funds Eligibility Under RAD

- Capital Funds may be used to pay for RAD Physical Condition Assessment (PCA).

- Following conversion to Section 8 under RAD, PHA will no longer receive Capital Funds, including RHF and DDTF funds, for that project after the initial year of conversion.

- If the PHA converts 100% of its units it will not receive any capital funds in the FY following conversion.
RAD AND SIGNIFICANT AMENDMENTS

Under RAD Notice, conversion of assistance to RAD is considered a significant amendment:

- PHA’s 5-Year Plan for qualified and non-qualified PHAs;
- Annual Plan for non-qualified PHAs; and
- An amendment to the Moving to Work (MTW) Plan for MTW PHAs.

RAD PUBLIC HOUSING REQUIREMENTS

➢ Procurement:
  • 2 CFR 200 applies to Capital Funds used for the converting property prior to HUD approval of RAD Financing Plan - RAD Conversion Commitment (RCC) and RAD conversion closing.

➢ Obligation and Expenditure Deadlines:
  • May apply for an extension of the obligation end date (OED) for up to five years from the point when Capital Funds become available to the PHA for obligation. (See Chapter 7 – Guidebook.)
RAD FUNDING MECHANICS

- RAD property receives subsidy from Operating and Capital Fund
- HUD reapportions Operating and Capital Funds to PBRA or PBV
- Funds will come from the PBRA and Tenant-Based Rental Assistance appropriations accounts

Conversion Year  Second Year  Third and Beyond Years
MOVING TO WORK (MTW) DEMONSTRATION PROGRAM
MOVING TO WORK (MTW) BACKGROUND

- Demonstration program, authorized by Congress in 1996:
  - Allows PHAs flexibility in combining and spending their Capital Funds, Operating Funds, and Section 8 Voucher Funds.
- 39 Participating PHAs (as of March 31, 2015).
- Capital Fund submission is part of Annual MTW Plan (except for ACC Amendment(s)).
- PHA Executes an MTW Standard Agreement with HUD:
  - Establishes planning and reporting requirements.
  - Contains MTW specific waivers.
MOVING TO WORK (MTW) BASICS

- Planning Requirements
- RHF/DDTP
- Capital Fund Submission
- LOCCs and Disbursement of Funds
- Obligation and Expenditure Deadlines
MOVING TO WORK (MTW)

- MTW website or MTW Office at mtw-info@hud.gov
Wrap Up and Questions

Wrap Up!
U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CHAPTER 11: SECURITY INTERESTS AND FINANCING ACTIVITIES
CHAPTER 11: TOPICS

- Capital Fund Financing Program (CFFP)
- Operating Fund Financing Program (OFFP)
- Public Housing Mortgage Program (PHMP)
- Other Security Interests and Financing Activities
STRATEGIC PLANNING OVERVIEW

- Capital Fund 5-Year Action Plan outlining PHA use of Capital Funds to meet mission and goals.
- Capital Fund PNA showing physical needs and costs.
- PHA should consider all funding sources when setting capital mission and goals.
CAPITAL FUND FINANCING PROGRAM (CFFP)
WHAT IS SECTION 30?

Section 516 of QHWRA added Section 30 to the United States Housing Act of 1937

Sec. 30: Public Housing Mortgages and Security Interests

(a) GENERAL AUTHORIZATION.—The Secretary may, upon such terms and conditions as the Secretary may prescribe, authorize a public housing agency to mortgage or otherwise grant a security interest in any public housing project or other property of the public housing agency.

(b) TERMS AND CONDITIONS.—In making any authorization under subsection (a), the Secretary may consider—
   (1) the ability of the public housing agency to use the proceeds of the mortgage or security interest for low-income housing uses;
   (2) the ability of the public housing agency to make payments on the mortgage or security interest; and
   (3) such other criteria as the Secretary may specify.

(c) NO FEDERAL LIABILITY.—No action taken under this section shall result in any liability to the Federal Government.
CFFP OVERVIEW

- 191 Transactions.
- 247 PHAs participated.
- Approximately $4.5 Billion in transactions approved.
- Transaction size from $104 thousand to $656 million.
- Pooled and Individual PHA Transactions.
POTENTIAL BENEFITS OF CFFP

- Potential Realized with effective long term planning
- Address backlog modernization needs
- Economies of scale and scope
- Leverage additional funds (ie: tax credits)
Financial Structure/Business Terms:

- **Capital Formula Funds**
  - Up to 20 years, generally.
  - Up to 33% of annual appropriation.
  - Proceeds considered Capital Funds.

- **RHF Pledge:**
  - Pledge 100% - provided overall Capital Funds do not exceed 50% of annual appropriation.
CFFP FUNDAMENTALS, CONTINUED

- Pledge a portion of PHA’s current and future years’ capital fund allocation as collateral for borrowing.

- **Financial Structure/Business Terms:**
  - Risk to Lenders/Investors and PHAs:
    - Appropriations.
    - Performance.
    - Poor Planning/Implementation.
- CFFP Proceeds Considered Capital Funds:
  - All Capital Fund program statutes, regulations, ACC, HUD notices that apply to CFFP.
  - PHA Plan:
    - Use of Proceeds – Annual Statement.
    - Use of Capital Funds for Debt Service – 5-Year Action Plan (Annual Statement if Applicable).
## Requirements

- Cover letter
- Term sheet, table of contents, and contact
- Financing Schedules and documents
- Capital Fund Budget
- PNA, Management Assessment, Fairness Opinion
- Declaration of Trust documentation
- Board Resolution, Counsel’s Opinion, and Depository Agreement
WHAT DO I WANT/NEED TO DO?

Step 1
• Conduct PNA (Large PHAs) for entire portfolio for term of proposed financing

Step 2
• Identify priority need projects, size, scope, and cost estimate

Step 3
• Prepare portfolio schedule to help determine future Capital Fund resources
PURPOSE OF A PORTFOLIO SCHEDULE?

- Reflects future adjustments in the Capital Fund (CF) grant and potential DDTF/RHF grants.
- Enables PHA to assess the potential amount of CF or RHF/DDTF funds available for debt service.
- A requirement for a CFFP submission.
How much money can I raise?

Will remaining CFP funds be sufficient for other PNA needs, particularly given any additional uses of Capital Funds?

The PHA must consider its options.

Strategically Using the Resources Available.
STRATEGIC MANAGEMENT KEY POINTS

- When considering options:
  - Reduction of public housing units = Reduction in Capital Funds and Operating Funds.

- A Strategic Plan is not an emergency tactic.

- The PNA is an excellent tool to anticipate future demands and be prepared for them.
**CFFP Transaction Example**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cap Funds</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>Annual $ Pledge (33%)</td>
<td>$330,060</td>
</tr>
<tr>
<td>Remaining Cap Funds</td>
<td>$669,940</td>
</tr>
<tr>
<td>Total Borrowing*</td>
<td>$4,000,000</td>
</tr>
<tr>
<td>Debt Service Reserve</td>
<td>$330,060</td>
</tr>
<tr>
<td>Capitalized Interest (3 mos)</td>
<td>$60,000</td>
</tr>
<tr>
<td>Expenses</td>
<td>$140,000</td>
</tr>
<tr>
<td>Project Fund</td>
<td>$3,469,940</td>
</tr>
</tbody>
</table>

*Assumes 5.495% fixed rate for 20 years, $140,000 in expenses.*
CFFP PROPOSAL PROCESS

- Establish support internally and with Field Office:
  - Identify project staffing and resources – effort requires significant resources.
  - Educate Board of Commissioners on proposed activity.
  - Seek Board approval for procurements.
  - Start updating PHA Plan and others as necessary.
  - Alert Field Office.

- Seek HUD approvals:
  - Mixed Finance, Demo/Dispo, Development, RHF.
  - Field Office coordination and support.
  - Sequencing can be tricky - parallel approvals.
1. Physical Needs Assessment not complete, not submitted to the Field Office.

2. PHA Plan not complete, not completed in accordance with HUD requirements, or not approved.

3. Evidence of effective DOTs in first position, lacking or insufficient. Counsel unresponsive.

4. Adjustments to CFP to reflect activities that would reduce grant.
Where does a PHA find information regarding the necessary documentation?

**CFFP website:**

**Office of Capital Improvements website (Cap Fund Reports):**

**Local Field Office:**
http://www.hud.gov/offices/pih/programs/ph/capfund/cffprolefo.cfm#1
OPERATING FUND FINANCING PROGRAM (OFFP)
OFFP KEY ELEMENTS

- Authorized by Section 9(d)(1)(A) of the 1937 Act.
- HUD written approval required on a case-by-case basis.
- PHAs are permitted to borrow private capital to develop or modernize public housing.
- PHAs may use a portion of their Operating Fund Reserve balances to collateralize financing and pay debt service.
<table>
<thead>
<tr>
<th>Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cover letter</td>
</tr>
<tr>
<td>OFF Financing Spreadsheet</td>
</tr>
<tr>
<td>Financing Statements</td>
</tr>
<tr>
<td>Financing Schedules</td>
</tr>
<tr>
<td>Annual Statement Budget (use of proceeds)</td>
</tr>
<tr>
<td>Disclosure of Existing Financing</td>
</tr>
<tr>
<td>Transactional Documents</td>
</tr>
<tr>
<td>Board Resolution, Counsel’s Opinion, &amp; Depository Agreement</td>
</tr>
<tr>
<td>Fairness Opinion, if requested</td>
</tr>
<tr>
<td>DOT/DORC documentation</td>
</tr>
</tbody>
</table>
OFFP EXAMPLE – HOUSING AUTHORITY OF THE CITY OF LAKE CHARLES, LA

- Operating Fund reserves as collateral for a loan for redevelopment of Booker T. Washington Homes, a mixed finance transaction, in the amount of $1.3 million.

- Security between Jeff Davis Bank and Trust and Lake Charles.

- 36 newly constructed townhome public housing units.
PUBLIC HOUSING MORTGAGE PROGRAM (PHMP)/SECTION 30
WHAT IS A PHMP TRANSACTION?

- Mortgage/Rider on Public Housing Real Estate:
  - May be in first position on non-dwelling property.
  - Must be subordinate to DOT on dwelling property.

- The PHMP permits PHAs to utilize programs which may require a mortgage or restrictive use covenant filed on the property:
  - Federal Home Loan Bank AHP.
  - Other State or local lending programs.
<table>
<thead>
<tr>
<th>Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cover letter</td>
</tr>
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<td>Amount of Financing</td>
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<td>Financial Terms</td>
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<td>Security/Collateral</td>
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<td>Recourse Terms</td>
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<tr>
<td>Income Restrictions</td>
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<tr>
<td>Payment Terms</td>
</tr>
<tr>
<td>Cost of Issuance</td>
</tr>
<tr>
<td>Debt Service Requirements</td>
</tr>
<tr>
<td>Any other special provisions</td>
</tr>
</tbody>
</table>
LESSONS LEARNED

- If you pledge public housing assets, get written approval from DAS of OPHI.
- Loan does not involve a pledge of public housing assets?
  - Are you sure?
  - Ask your attorney to insert a clear non-recourse provision in the loan documents – there is no recourse to public housing assets.
  - If you borrow funds, make sure you get an attorney’s opinion that PH assets are not pledged or otherwise encumbered.
LEGAL PROVISIONS

- **Conflicts Provision:**
  - Incorporate into all loan documents.
  - Public Housing requirements prevail.

- **Non-Recourse Provision:**
  - Recourse to public housing assets limited only to property being mortgaged.

These legal provisions must be incorporated in all legal documents.
OTHER SECURITY INTERESTS AND FINANCING ACTIVITIES
ENERGY PERFORMANCE CONTRACTS SECTION 30

- EPC requiring a security interest or other public housing property encumbrance must obtain EPC Section 30 approval.

- EPC Section 30 review is separate from EPC agreement approval.

- EPC Section 30 proposals are submitted to the Field Office and the Deputy Asst. Secretary of Field Operations.

- PHA will receive separate approval for the EPC transaction and the EPC Section 30.
Grants security interest related to an Energy Performance Contract (EPC):

- County of ABC.
- Jones Capital Corporation (Lessor).

Installation of Energy Conservation Measures (ECMs):

- 15 years.
- $3.4 million.
- ECMS at seven public housing developments.
Wrap Up and Questions
CHAPTER 12: COMPLIANCE, PENALTIES AND SANCTIONS
CHAPTER 12: TOPICS

- Compliance Requirements
- Sanctions
COMPLIANCE REQUIREMENTS
**COMPLIANCE OVERVIEW**

- PHAs, their management entities, instrumentalities, and their partners (owner entities and affiliates) must comply with all applicable provisions of the Capital Fund Rule.

- Compliance is indicated by:
  - Execution of an ACC Amendment.
  - Completion of submission requirements.
  - Drawdown of CFP grant funds.

- Areas of specific compliance focus are:
  - Submission requirements.
  - Development requirements.
PHAs must revise or correct information in Annual Capital Fund submissions (see Chapter 3) that is not compliant with the Capital Fund Rule.

Administrative sanctions may result if corrections for compliance are not made.

PHAs must comply with the following:
- 24 CFR 905-Capital Fund Rule.
- 2 CFR 200.
- Civil Rights Acts.
- Accessibility Requirements- Section 504, American Disabilities Act (ADA), Fair Housing Amendments Act (FHAA), Architectural Barriers Act (ABA).
- Section 3.
POST-SUBMISSION REQUIREMENTS

- PHAs must comply with 24 CFR 905, Subpart H – Compliance, HUD Review, Penalties and Sanctions.

- Access to **Capital Funds** may be suspended/denied if PHAs are non-compliant in any area including:
  - Timely certification of IMS/PIC data;
  - Current DUNS number in the System of Award Management (SAM) – an annual update;
  - Submission of Board resolution approving 5-Year Action Plan;
  - Timely submission of required documents;
  - Complete environmental reviews; or
  - Compliance with procurement requirements.
SANCTIONS
HUD SANCTIONS

HUD can take the following actions for compliance:

• Issue a corrective action order;
• Require reimbursement from non-federal sources;
• Limit, withhold, reduce, recapture, or terminate capital fund or operating fund assistance;
• Issue a limited denial of participation or debar responsible PHA officials;
• Withhold assistance or other legal action per Section 6(j) of the 1937 Act;
• Declare a substantial default of the ACC;
• Take all available actions under 2 CFR 200.338-200.342; and
• Take other corrective action that HUD deems necessary.
A PHA has not completed the environmental review for the FY15 Capital Fund grant. What steps can the Field Office take to ensure compliance?
After contacting the PHA to request completion of the environmental review, the Field Office can choose not to spread the PHA’s FY15 Capital Fund budget in LOCCS; suspend the FY15 Capital Fund grant; and/or place the FY15 Capital Fund grant on auto-review in LOCCS until the environmental review is complete.
Wrap Up and Questions