



## WAHA Fall Conference Commissioner Training September 21, 2011

### Agenda

- Importance of Commissioner Position
- Governance - New PH Initiative
- HUD Strategic Plan 2012 / 2013
- Planning - Needs Assessments
- Housing Authority Law
- Resident Commissioners
- Commissioner - ED Roles

## Agenda (cont.)

- Salaries & Benefits - **Changes!**
- Commissioner Compensation - **Updates**
- Board Meetings
- Law, Regulation & Policies
- HUD Programs Update
- Procurement / Contracting

## Importance of Position

- Housing Authorities should be run like a business, including:
  - ✓ Budget knowledge, planning, and oversight
  - ✓ Oversight of Executive Director
  - ✓ Knowledge of business plans (policies, strategic goals, etc.)
  - ✓ Knowledge of funding agencies laws and regulations
  - ✓ Conduct all business in an ethical manner (i.e., no favoritism in operations, contracting, etc.)

## Importance of Position

- Read and understand Annual Contributions Contract (ACC) - Legal, binding document with HUD
- Understand as much as possible about your programs, policies, laws, regulations, and local strategic goals
- Ask questions!
- Feel free to call our office. Board training available



## Governance – New PH Initiative

- Dictionary defines governance as “the system or manner of government”.
- Involves a holistic approach; partners include:
  - HUD
  - Board of Commissioners
  - Local Officials
  - Community Stakeholders
- For Troubled PHAs, takes necessary steps to identify and remedy PHA governance and financial management failures before the residents and community are negatively impacted.

## Governance - New PH Initiative

- HUD internal partners include:
  - Public Housing
  - Field Policy and Management (Front Office)
  - Department Enforcement Center
- "Collaborations"
  - Cross Program Collaborations
  - Field Working Groups
  - Varying Roles

## Fiscal Year 2012/2013 Goals

Mission:

Create strong, sustainable, inclusive communities and quality, affordable homes for all.



## Fiscal Year 2012/2013 Goals

Goal 1 - Strengthen the Nation's Housing Market to Bolster the Economy and Protect Consumers.

Goal 2 - Meet the Need for Quality Affordable Rental Homes.

## Fiscal Year 2012/2013 Goals

Goal 3 - Utilize Housing as a Platform for Improving Quality of Life.

Goal 4 - Build Inclusive and Sustainable Communities Free from Discrimination.

Goal 5 - Transform the Way HUD Does Business.

## PH High Priority Goals

1. Increase utilization in Public Housing
  - Reduce Vacancies
  - Identify all units available for occupancy
  - House as many families as possible
  - Ensure accurate unit data in PIH systems
  - Data will be used to determine Capital Fund and Operating Subsidy amounts

## PH High Priority Goals

2. Optimize the utilization of Housing Choice Voucher funds
  - House as many families as possible
  - Ensure that PHAs don't exceed allocated budget authority while utilizing 98 - 100 percent of funds
  - Monthly projections needed to determine anticipated costs

## PH High Priority Goals

3. American Recovery and Reinvestment Act
  - Ensure ARRA funds are expended by established deadlines
  - Ensure ARRA funds are expended in accordance with applicable laws and regulations
  - Currently 89 out of 95 grants are fully expended. Overall expenditure rate: 96%
  - Completing Year 3 monitoring

## PH High Priority Goals

4. Create energy efficient housing through energy conservation and green retrofits
  - 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."

## Planning!



- Very important tool for HAs!
- All HAs should have a current needs assessment for both physical structure and management needs.
- Should project for 5 to 10 years and be a fluid document.
- Include anticipated costs
- Include energy conservation and efficiency measures

## Planning!

- HAs shouldn't rely solely on HUD - **Funding is changing! (i.e. 2012 PH reserves)**
- Be aware of other funding sources and partnerships
- Be aware of proposed changes and possible effect on your HA.
- Contact lawmakers?
- Pro-active approach is best, not management by crisis

## 2012 Operating Fund Proposal

### Proposed Allocation Adjustment

- 2012 budget proposes to adjust each PHA's Operating Fund calculation based on operating reserves retained by PHAs.
- Under the proposal small PHAs can retain at least 6 months and large PHAs at least 4 months of PH reserves.
- PHAs will be responsible for contributing a share to the budgetary offset according to the amount of reserves they currently maintain.

## Planning Resources

- Small HA partnerships and consortiums.
- Pooling of Capital Funds.
- Capital Fund Financing Program.
- Voluntary conversion of PH developments to tenant based assistance.
- Utilize state and local programs - i.e. Low Income Housing Tax Credits

## HA Law



- HAs are created under State Statute
- HAs are State entities and not Federal.
- HAs are their own entities with various partners (HUD, local community, etc.)
- HAs administer Federal programs, i.e. HUD, Rural Development, etc.
- Commissioners appointed per State Statutes

## HA Law

- Terms of Commissioners defined in State Statutes.
- First five appointed for 1,2,3,4,5 year terms, respectively.
- After initial appointments - 5 year terms.
- Vacancies appointed as usual by governing local official.

## Resident Commissioners

- Required by Quality Housing and Responsibility Act of 1998 (QHWRA)
- HA Boards must contain not less than one eligible resident Board member.
- Eligible = Directly assisted by HA.
- Exception:
  - Less than 300 PH units
  - All Section 8 only HAs
  - Annual attempts made with no interest from residents

## Resident Commissioners

- Resident Commissioners are voting members.
- Precautions must be taken regarding sensitive information.
- Board members can be removed for inefficiency or neglect.
- Resident on Board regulation found @ 24 CFR part 964, subpart E.

## Commissioner - ED Roles

- Board and ED work together to make an effective team!
- Board should be knowledgeable.
- Board makes policy, ED & staff implement policies.
- Why?
  - Knowledge of law & regulations
  - Liability concerns
  - Fair Housing Concerns

## Commissioner - ED Roles

Task	Board Role	ED Role
Long Term Goals	Approves	Recommends and provides input
Day to Day Operations	No role	Makes all decisions
Budget	Approves	Develops and recommends
Routine Monthly Expenditures	Monitors	Establishes and carries out
Development of Policy	Adopts and monitors	Recommends and carries out
Billing, Credit and Collections	Adopts policy	Recommends and carries out
Hires, directs & evaluates staff	No role	Approves
Staff Grievances	No role	The grievance stops here
Staff Salaries	Allocates by line item in budget	Approves salaries with recommendation from Supervisor
Evaluating Staff	Evaluates the ED	Evaluates all other staff

## Salaries and Benefits

- Common question from Executive Directors and Boards
- HUD does not stipulate salaries for EDs and staff unless there are financial concerns.
- HA size, staff, programs, and number and type of units help determine salaries.



## Salaries and Benefits

- **New reporting requirements** in Notice PIH-2011-48 , dated August 26, 2011 - "Guidance on Reporting Public Housing Conducting Comparability Analysis"
- PHAs that administer HUD-assisted PH and HCV programs will be required to report to HUD annually the compensation provided to each of their five highest compensated employees, which will then be posted on HUD's website with job titles but without employee names.

## Salaries and Benefits

- Intended to serve as a valuable transparency and oversight tool and a point of comparison for local PHA boards in determining appropriate compensation levels.
- All PHA boards will also be required to conduct comparability analyses when determining executive director compensation levels and certify that such an analysis has been performed.

## Salaries and Benefits

- “Boards should explicitly consider comparability in setting or making significant changes to the compensation of PHA executive directors or other chief executive officers”.
- Boards determine appropriate comparability data that may include independent compensation surveys and information concerning compensation provided to comparable PHA executive directors, to comparable state and local public officials, and to comparable private sector executives.
- The specifics are up to each Board.

## Salaries and Benefits

- PHAs that operate PH will be required to complete HUD-52725 form and submit it with their HUD-52723 (operating subsidy) form to their appropriate Field Offices
- PHAs that operate a HCV program only should complete and return the HUD-52725 form to their Field Office, even though they do not complete the HUD-52723
- Follows operating subsidy submission schedule
- Copy of Notice and HUD-52725 in handouts

## Board Meetings

- Open meeting law @ State Statute 19.81 requires Board to meet in an open session, preceded by public notice.
- Exemptions to open meetings stated at 19.85 for:
  - Judicial deliberation
  - Personnel actions
  - Resident personal information
  - Other private actions

## Board Meetings



### Duties of Commissioners

- Set policies
- Pass resolutions
- Review reports (financial, vacancy, evictions, etc.)
- Review status of current programs
- Information should be provided prior to meeting to allow time for review.

## Board Meetings - Budgets

- Your budget is a "Plan for the Future" expressed in dollars.
- Your budget is based on assumptions about future conditions.
- It is a tool to measure financial performance.
- Board should review income statements and balance sheets to check for variances

# Board Meetings - Budgets

Steps in the budget process:

- Begin budget planning at least 45 days prior to fiscal year beginning.
- Use Needs Assessment to determine needs for upcoming year.
- Collect information on anticipated contracts, maintenance work, management needs, etc.

Income Statement  
Budget Comparison  
October 1 2011 through October 31, 2011

	Current Month			Year to Date		
	Actual	Budget	Variance	Actual	Budget	Variance
<b>Income</b>						
Rental Income	\$35,452	\$36,000	(\$548)	\$ 463,100	\$ 432,000	\$31,100
Operating Subsidy	\$ 7,489	\$ 7,489	\$ -	\$ 87,450	\$ 89,868	\$2,418
<b>Total Income</b>	<b>\$ 42,941</b>	<b>\$43,489</b>	<b>(\$548)</b>	<b>\$ 550,550</b>	<b>\$ 521,868</b>	<b>\$(28,682)</b>
<b>Expenses</b>						
Unit Turnaround	\$ 850	\$ 500	(\$350)	\$ 6,500	\$ 6,000	(\$500)
Lawn Care	\$ 1,245	\$ 1,000	(\$245)	\$ 13,500	\$ 12,000	(\$1,500)
<b>Total Expenses</b>	<b>\$ 2,095</b>	<b>\$ 1,500</b>	<b>(\$595)</b>	<b>\$ 20,000</b>	<b>\$ 18,000</b>	<b>(\$2,000)</b>
<b>Net Income</b>	<b>\$40,846</b>	<b>\$ 41,989</b>	<b>\$ 47</b>	<b>\$ 530,550</b>	<b>\$ 503,868</b>	<b>\$(26,682)</b>

## Commissioner Compensation

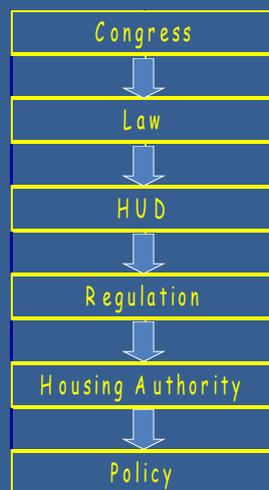
### State Law 66.1201(5)(b)

The council of a city may pay commissioners a per diem and mileage and other necessary expenses incurred in the discharge of their duties at rates established by the council.

### HUD Annual Contributions Contract (ACC)

Part A, Section 14, part (B), states "No funds of any project may be used to pay any compensation for the services of members of the HA Board of Commissioners."

## Laws, Regulations & Policies



## Laws, Regulations & Policies

- It is very important that HAs have up to date policies.
- Policies dictate how HAs run their day-to-day operations.
- Policies will be your justification on HA actions and on any subsequent legal issues.
- Various resources:
  - Other HAs
  - State Associations - WAHA
  - Industry Groups - NAHRO, PHADA, Nan McKay

## Laws, Regulations & Policies

### Required Policies

- Admissions and Continued Occupancy Policy (ACOP) - PH
- Administrative Plan - Section 8
- Grievance
- Rent Collection
- Pet
- Procurement
- Maintenance
- Community Space

## HCV Program

- PH High priority goal
- Since 2005, Congress has established by law in the annual appropriations that HAs may not expend more than they are allocated, in either their Admin or HAP budgets in a calendar year.
- Anticipate further funding changes!

## HCV Program

- Extensive monitoring/funding issues began in 2009
- PHAs that previously had no funding issues begin experiencing problems
- HAP costs have increased exponentially while attrition rates declined drastically. PHAs were forced to extensively utilize Net Restricted Assets (HAP reserves)

## HCV Program

- Essential that PHAs track and monitor HCV budgets
- Essential that PHAs do projections for end of year budgets
- Essential that PHAs maintain accurate and separate Admin and HAP budgets
- Essential that PHAs monitor program costs
- May see consolidation of HCV Programs between PHAs

## PH Utilization Project

- PH High priority goal
- Goal is to provide housing assistance to as many families as possible
- Field Office completed on-site and remote reviews of all 96 low-rent PHAs by December 31, 2010. (134 developments)
- Identify and minimize vacant units and potential problems
- Big push to fill units by September 30, 2011

## Procurement & Contracting

- Required by 24 CFR part 85.36
- HAs must ensure open and fair competition when using federal funds.
- Ensure integrity in contracting
- Update and follow Procurement Policy
- HAs are responsible for procurement actions
- Increased ARRA oversight



## Procurement Roles



- Role of PHAs:
  - Implement and manage their programs in accordance with program requirements
  - May request HUD review of procurement systems
  - May self-certify that their procurement system meets HUD requirements



- Role of HUD:
  - Review PHA procurement system upon request by PHA
  - Perform post-procurement reviews

## Procurement Authority

- Executive Director has first line of authority unless he/she assigns all or a portion of that responsibility to PHA staff based on the organization and staffing levels of the PHA
  - Delegations must specify monetary limits & types of actions allowed, including re-delegations
- ED or Contracting Officer (CO) has full authority to procure and execute contracts on behalf of the PHA
- Board of Commissioners
  - Provide only general oversight role of procurement activities at PHA through board meetings
  - Should not be directly involved in the process of selecting vendor/contractor
  - May set up a contract concurrence process under the Procurement Procedures, if desired, for certain actions which exceed a specified threshold

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## Procurement Conflicts of Interest

### 24 CFR 85.36(b)(3):

- No PHA employee, officer or agent shall participate in the selection, award or administration of a contract supported by federal funds **if**:
  - the employee, officer or agent,
  - any member of his immediate family
  - his/her partner;
  - or an organization which employs him,

**...has a financial interest or other interest in the firm selected for the award.**

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## Procurement Methods

The regulations @ §85.36(d) outline four basic procurement methods to be used by PHAs based on the Federal Simplified Acquisition Threshold:

1. Small Purchase Procedures (Informal)
2. Sealed Bids (Formal)
3. Competitive Proposals
4. Noncompetitive Proposals

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## Types of Procurement

### Petty Cash

- Small one time purchase
- Policy determines amount
- Typically < \$50

### Micro Purchases

- Less than \$2,000.
- Single bid if reasonable.

## Types of Procurement

### Small Purchase Procedures (Informal)

- Up to \$25,000 (State limit)
- Can adopt up to \$100,000 (Federal)
- Quotes from adequate number of qualified sources - Preferably in writing

### Sealed Bids (Formal Advertising)

## Types of Procurement

### Sealed Bids (Formal Advertising)

- Typically used for construction work
- Bids are sealed and read aloud at Bid Opening at established date and time
- Contract awarded to the lowest, responsible and responsive bidder

## Responsive Bidders

- A bidder or offeror which submits a reply or bid which conforms to the material terms and conditions of the solicitation
- Per §85.36(d)(2)(ii)(D), the qualification process applies *only* to Sealed Bids (i.e., IFB)
- The PHA's Contracting Officer (CO) must assess the responsiveness by ensuring that all required documents were provided (e.g., bid bond) as noted in the solicitation or request
- *Makes bidders or offerors to a solicitation eligible entities to be considered for award!*

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## Responsible Contractors

- A bidder or offeror that has the ability to perform successfully under the terms and conditions of the proposed contract/agreement
  - Per §85.36(d)(2)(ii)(D) of Sealed Bids, PHAs shall award contracts to the *lowest* responsible bidders
- In determining responsibility, the PHA's CO shall consider the bidder's/offeror's:
  - Satisfactory record of integrity & business ethics
  - Compliance with public policy
  - Performance record & experience
  - Financial & technical resources

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## Types of Procurement

### Competitive Proposals

- Use when price is not the determining factor
- Typically used for Architect contract
- WI is a Quality Based State (QBS)
- Price is **not** used when soliciting an Architect
- Per §85.36(d)(3)(iv) of Competitive Proposals, PHAs shall make awards to responsible firms whose proposal is most advantageous

## Procurement Resources

### Procurement Information:

- Copy of Procurement Handbook 7460.8 REV 2:  
[www.hud.gov/offices/adm/hudclips/index.cfm](http://www.hud.gov/offices/adm/hudclips/index.cfm)
- Public Housing internet web page:  
[www.hud.gov/offices/pih/index.cfm](http://www.hud.gov/offices/pih/index.cfm)

### Regulatory references:

- List of debarred entities from doing business with the Federal Government
  - LDP: [www.hud.gov/enforce](http://www.hud.gov/enforce)
  - GSA: [www.epls.gov](http://www.epls.gov)
- Wage Rates: [www.wdol.gov](http://www.wdol.gov)
- List acceptable sureties for the issuance of Performance & Payment Bonds:  
[www.fms.treas.gov/c570](http://www.fms.treas.gov/c570)

Thank you!



Questions?



**U. S. Department of Housing and Urban Development  
Office of Public and Indian Housing**

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**Special Attention of:**

Public Housing Agencies;  
Public Housing Hub Office Directors;  
Public Housing Program Center Directors;  
Public Housing Division Directors;  
Regional Directors;  
Field Office Directors

**NOTICE: PIH-2011-48 (HA)**

Issued: August 26, 2011

Expires: Effective until amended,  
superseded, or rescinded

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Cross References:

76 FR 23330

76 FR 40741

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**Subject: Guidance on Reporting Public Housing Agency Executive Compensation Information and Conducting Comparability Analysis**

**1. Background.** As stated in recent public notices published in the Federal Register (i.e., 76 FR 23330 and 76 FR 40741), Public Housing Agencies (PHAs) that administer HUD-assisted public housing and housing choice voucher programs will be required to report to HUD annually the compensation provided to each of their five highest compensated employees, which will then be posted on HUD's website with job titles but without employee names. This will serve as a valuable transparency and oversight tool and a point of comparison for local PHA boards in determining appropriate compensation levels. To that end, all PHA boards will also be required to conduct comparability analyses when determining executive director compensation levels and certify that such an analysis has been performed.

**2. Purpose.** This notice: (1) provides information and guidance on Form HUD-52725 to be used by PHAs to report executive compensation and explains its required use; and (2) explains how PHAs are to conduct comparability analyses with respect to compensation provided to executive directors and certify that they have done so.

**3. Applicability.** The requirements in this notice apply to all PHAs that administer a public housing or housing choice voucher program, except for PHAs that operate a housing choice voucher program only and receive less than 50 percent of their funding for employees from HUD (this includes all HUD programs). Exempt PHAs are requested but not required to submit the compensation information.

**4. Reporting PHA executive compensation using Form HUD-52725.** In order to determine operating subsidy eligibility under the public housing operating fund formula, PHAs that operate HUD-assisted public housing are required to complete and submit annually a HUD-52723 form. Beginning with the next distribution of the HUD-52723, which is projected to

occur in September 2011, an additional form, the Schedule of Positions and Compensation form, HUD-52725, will be distributed along with the HUD-52723. PHAs that do not operate public housing units and operate a housing choice voucher program only will also receive HUD-52725 forms at the same time. Attached to this notice are a HUD-52725 form and the accompanying instructions, which are similar to the procedures utilized by the Internal Revenue Service to collect information on the five most highly compensated employees of non-profit organizations receiving federal tax exemptions.

**5. Submissions.** PHAs that operate public housing will be required to complete the HUD-52725 form and submit it with their HUD-52723 form to their appropriate Field Offices. PHAs that do not operate public housing units and operate a housing choice voucher program only should complete and return the HUD-52725 form to their Field Office, even though they do not complete the HUD-52723. These PHAs must follow the same submission schedule as PHAs that operate public housing.

**6. Conducting comparability analysis in determining PHA executive director compensation and certifying compliance with this requirement.** Previous HUD guidance and sound administrative practice call for PHAs to set executive compensation, particularly for executive directors, at a level within the range of that provided to comparable executive employees (see, for example, section 2-1 of PIH Handbook 7401.7 (1987)). Consistent with this principle, while providing maximum flexibility to PHAs, PHA Boards of Commissioners or equivalent authorities should explicitly consider comparability in setting or making significant changes to the compensation of PHA executive directors or other chief executive officers. As determined by each Board, appropriate data as to comparability may include, for example, independent compensation surveys and information concerning compensation provided to comparable PHA executive directors, to comparable state and local public officials, and to comparable private sector executives. The specifics are up to each Board, and while PHAs normally need not provide the specific information utilized for this purpose to HUD, they are required to retain this information and provide it to HUD if requested in a particular case. It is important that all PHA Boards of Commissioners and equivalent authorities understand and implement these requirements. By executing the PHA Certification of Compliance with PHA Plans and Related Regulations to accompany the PHA 5-year and annual PHA Plan, the Chairperson of the Board of Commissioners or other authorized PHA official will certify that the PHA has complied with the comparability analysis requirements, as they certify their compliance with all Federal requirements.

**7. Penalty for PHA non-compliance.** In the event that a PHA fails to: (1) comply with the PHA executive compensation reporting requirements; or (2) provide HUD, upon its request, with the specific information used by the PHA to conduct a comparability analysis in determining executive director compensation, HUD may impose temporary monetary sanctions on the PHA, pursuant to Section 6(j)(4) of the U.S. Housing Act of 1937. Additionally, PHAs that receive assistance under section 9 that fail to substantially comply with any provision of the U.S. Housing Act of 1937 relating to the public housing program, may have withheld “amounts allocated for the agency under section 8” (see 6(j)(4)(A)(v)), and may face other remedies pursuant to HUD regulation. These provisions apply to MTW as well as non-MTW agencies.

**8. Paperwork Reduction Act.** The information collection requirements contained in this document are approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995, 44 U.S.C. 2501-3520. The OMB control number is 2577-0272. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to a collection of information unless the collection displays a currently valid OMB control number.

**9. Further information.** Inquiries about this notice should be directed to Donald J. Lavoy at (202) 402-6296 or Donald.J.Lavoy@hud.gov.

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/s/

Sandra B. Henriquez, Assistant Secretary  
for Public and Indian Housing

<b>Operating Budget</b> Schedule of Positions and Compensation	<b>U.S. Department of Housing and Urban Development</b> Office of Public and Indian Housing OMB Approval No. 2577-0272 (exp. 08/31/2014)
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Public Reporting for this collection is estimated to average twenty minutes (.33 hours) per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number. Under current law, nonprofit organizations receiving federal tax exemptions are required to report to the IRS annually the names and compensation of their five current highest compensated employees. Public housing authorities receive significant direct federal funds, and to promote similar public transparency and to enhance oversight by HUD and by state and local authorities, the same information should be made available as to public housing authorities. Responses to the collection of information are required to obtain a benefit. The information does not lend itself to confidentiality.

List the Public Housing Agency's (PHA) five highest compensated employees who received reportable compensation and benefits from the organization and any related organizations for the most recent and completed calendar year. Upon completion, an appropriate representative shall sign and certify the the information provided in true and correct. See following page for complete instructions on completing the form.

**Section I:**

Name of Housing Authority	
PHA Code	
PHA Program(s)	Public Housing & Section 8 <input type="checkbox"/> Public Housing Only <input type="checkbox"/> Section 8 Only <input type="checkbox"/>

**Section II:**

(A)* Last Name	First Name, Middle Initial	(B) Title	(C) Reportable Compensation from the PHA and Related Organizations	(D) Contributions to Employee Benefit Plans & Deferred Compensation From the PHA and Related Organizations	(E) Other Compensation or Allowances	(F) Total Compensation and Benefits
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -

The following individual hereby certifies that the above information is true and correct (Please type your name):

HUD will prosecute false claims and statements. Such false statements and/or entries may be subject to criminal and/or civil penalties (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802).

\*The Department of Housing and Urban Development does not intend to publish the names of individuals reported on this form.

## Instructions for Preparation of Form HUD-52725

Information for the Public Housing Agency's (PHA) five highest compensated employees will be collected annually. This form is to be prepared to report compensation (including taxable benefits) for the five highest compensated employees for the most recent full calendar/tax year. For example, if the PHA is completing the Form in July 2011, information reported on the Form will be from compensation received during CY 2010. This form is a requirement for PHAs administering a public housing or a housing choice voucher program. Only those PHAs that operate a housing choice voucher only program and receive less than fifty percent (50%) of their funding for employees from the Department of Housing and Urban Development are not required to complete this form. PHAs administering a housing choice voucher only program and receive greater than fifty percent (50%) of their funding for employees from the Department of Housing and Urban Development are required to complete this form.

### Section I

**Name of Housing Agency and PHA Code- Enter the name and PHA Code of the PHA for which the five highest compensated employees are being reported.**

**PHA Program** - Indicate whether your Agency operates a Public Housing and Section 8 Programs, a Public Housing Program Only or a Section 8 Program only by placing a 'X' in the appropriate box.

### Section II

**Column A (Name)** - Enter the last name of the employee in the first column. Enter the first name and middle initial of the employee.

**Column B (Title)** - Enter the employee's title or position with the PHA.

**Column C (Reportable Compensation from the PHA and Related Organizations)** - Report compensation for the calendar year ending within the PHA's fiscal year. For example, if a PHA's fiscal year is the 12-month period ending June 30, 2011, the PHA employee must report compensation for the calendar year ending December 31, 2010. Reportable compensation amounts required to be reported shall be derived from IRS Form W-2, box 1 (Wages, Tips and Other Compensation) plus IRS Form 1099-MISC, box 7 if the employee is also compensated as an independent contractor. If the employee received compensation from the PHA and a related organization add both sources of compensation to populate the data field.

**Column D (Contributions to Employee Benefit Plans and Deferred Compensation From the PHA and Related Organizations)** - Report the following items of deferred compensation and benefits.

- a) Employer contributions to a qualified retirement plan, including defined benefit, 401K and/or other retirement plans(s)
- b) Employer contributions to Health Care Benefit Plans and any associated costs on behalf of respective employee. For this purpose, health benefits provided by the employer include payments of health benefit plan premiums, medical reimbursement, and flexible spending programs. Health benefits include medical, dental, optical, drug and medical equipment benefits. They do not include disability or long-term care insurance premiums or allocated benefits for this purpose
- c) Employer contributions to a Social Security Trust Fund

**Column E (Other Compensation or Allowances)**

- a) Employer contributions towards bonus and awards not otherwise recognized as part of Salaries and Wages
- b) Any other compensation not captured above (e.g. car allowance, life insurance premium)
- c) The fair market value of any non-cash compensation (e.g. use of company vehicle)

**Column F (Total Compensation and Benefits)** - The form will populate automatically by adding Columns C, D & E.

Following the information for the five highest compensated is a certification line where the individual completing the form will type in their name to certify the accuracy of the information provided.

# 2011WAHA Fall Conference Handout

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## Title 24: Housing and Urban Development

### [PART 85—ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE, LOCAL AND FEDERALLY RECOGNIZED INDIAN TRIBAL GOVERNMENTS](#)

#### [Subpart C—Post-Award Requirements Changes, Property, and Subawards](#)

#### **§ 85.36 Procurement.**

(b) *Procurement standards.* (1) Grantees and subgrantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.

(3) Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

(i) The employee, officer or agent,

(ii) Any member of his immediate family,

(iii) His or her partner, or

(iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

### [PART 982—SECTION 8 TENANT BASED ASSISTANCE: HOUSING CHOICE VOUCHER PROGRAM](#)

#### [Subpart D—Annual Contributions Contract and PHA Administration of Program](#)

#### **§ 982.161 Conflict of interest.**

(a) Neither the PHA nor any of its contractors or subcontractors may enter into any contract or arrangement in connection with the tenant-based programs in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

(1) Any present or former member or officer of the PHA (except a participant commissioner);

(2) Any employee of the PHA, or any contractor, subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the programs;

(3) Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs; or

(4) Any member of the Congress of the United States.

(b) Any member of the classes described in paragraph (a) of this section must disclose their interest or prospective interest to the PHA and HUD.

(c) The conflict of interest prohibition under this section may be waived by the HUD field office for good cause.

## 2011WAHA Fall Conference Handout

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### Constituting Part A of a Consolidated Annual Contributions Contract Between Housing Authority and the United States of America

#### **Section 19 - Conflict of Interest.**

(A)(1) In addition to any other applicable conflict of interest requirements, neither the HA nor any of its contractors or their subcontractors may enter into any contract, subcontract, or arrangement in connection with a project under this ACC in which any of the following classes of people has an interest, direct or indirect, during his or her tenure or for one year thereafter:

(i) Any present or former member or officer of the governing body of the HA, or any member of the officer's immediate family. There shall be excepted from this prohibition any present or former tenant commissioner who does not serve on the governing body of a resident corporation, and who otherwise does not occupy a policymaking position with the resident corporation, the HA or a business entity.

(ii) Any employee of the HA who formulates policy or who influences decisions with respect to the project(s), or any member of the employee's immediate family, or the employee's partner.

(iii) Any public official, member of the local governing body, or State or local legislator, or any member of such individuals' immediate family, who exercises functions or responsibilities with respect to the project(s) or the HA.

(2) Any member of these classes of persons must disclose the member's interest or prospective interest to the HA and HUD.

(3) The requirements of this subsection (A)(1) may be waived by HUD for good cause, if permitted under State and local law. No person for whom a waiver is requested may exercise responsibilities or functions with respect to the contract to which the waiver pertains.

(4) The provisions of this subsection (A) shall not apply to the General Depository Agreement entered into with an institution regulated by a Federal agency, or to utility service for which the rates are fixed or controlled by a State or local agency.

(5) Nothing in this section shall prohibit a tenant of the HA from serving on the governing body of the HA.

## 2011WAHA Fall Conference Handout

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(B)(1) The HA may not hire an employee in connection with a project under this ACC if the prospective employee is an immediate family member of any person belonging to one of the following classes:

(i) Any present or former member or officer of the governing body of the HA. There shall be excepted from this prohibition any former tenant commissioner who does not serve on the governing body of a resident corporation, and who otherwise does not occupy a policymaking position with the HA.

(ii) Any employee of the HA who formulates policy or who influences decisions with respect to the project(s).

(iii) Any public official, member of the local governing body, or State or local legislator, who exercises functions or responsibilities with respect to the project(s) or the HA.

(2) The prohibition referred to in subsection (B)(1) shall remain in effect throughout the class member's tenure and for one year thereafter.

(3) The class member shall disclose to the HA and HUD the member's familial relationship to the prospective employee.

(4) The requirements of this subsection (B) may be waived by the HA Board of Commissioners for good cause, provided that such waiver is permitted by State and local law.

(C) The requirements of subsections (A) and (B) of this section do not apply to contracts entered into by an Indian Housing Authority, its contractors or subcontractors, although such contracts remain subject to other applicable conflict of interest requirements.

(D) For purposes of this section, the term "immediate family member" means the spouse, mother, father, brother, sister, or child of a covered class member (whether related as a full blood relative, or as a "half" or "step" relative, e.g., a half-brother or stepchild).



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## HUD Proposed CY2012 Operating Fund and Proposed Allocation Adjustment

HUD issued the proposed CY2012 Operating Fund Budget on February 14, 2011. A special Allocation Adjustment is proposed in the 2012 Budget. Specifically, the 2012 budget proposes to adjust each PHA's Operating Fund calculation based on operating reserves retained by local public housing agencies (PHAs). HUD reviewed the operating reserves held by local housing authorities based on PHA financial statements. HUD has developed a methodology for these reserves whereby the PHAs will maintain 4 to 6 months of operating reserves for the financial wellbeing of each agency. Under the proposal small PHAs can retain at least 6 months and large PHAs at least 4 months. PHAs will be responsible for contributing a share to the budgetary offset according to the amount of reserves they currently maintain. In the present funding environment it is essential for HUD to evaluate all existing funds in order to reach intended goals.

PHAs are encouraged to go to HUD's Operating Reserves Calculation Tool which was updated on July 1, 2011 to determine the operating reserves for non-Moving-To-Work (MTW) PHAs. MTW PHAs will not have the allocation adjustment based on operating reserves but instead HUD proposes a proration share based on an average for similarly sized PHAs. For additional information go to: [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/programs/ph/am/of/opfnd2012](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/am/of/opfnd2012)

The Operating Reserves Calculation Tool is set up where a PHA would enter its 5-digit PHA Code and PHA information such as PHA name, fiscal year and submission type. The calculation tool looks at the total unrestricted current assets calculation minus total current liabilities plus long term debt, capital projects equaling the operating reserves. Operating reserves are based on a PHAs fiscal year end and the calculated operating reserves are for the following four fiscal year end dates: September 30, 2010; June 30, 2010; March 31, 2010; and December 31, 2009. Only approved FASS-PH submissions were included in the operating reserve calculations.

Note that HUD cannot provide final policy determinations until Congress passes a 2012 budget.

Comments, questions and/or concerns regarding the CY 2012 Allocation Adjustment for the Operating Fund program can be forwarded to HUD by sending an email to [2012allocationadjustments@hud.gov](mailto:2012allocationadjustments@hud.gov).

### PIH Notices

**PIH 2011-36**, "Guidance on Energy Performance Contracts" issued July 8, 2011. This notice serves to reinstate and update the content of PIH Notice 2009-16 and provide supplementary guidance on financial incentives to promote energy conservation. Energy Performance Contracting is a financing technique that uses energy/utility cost savings from reduced energy consumption to repay the cost of installing ECMs. HUD encourages PHAs to employ innovative approaches such as EPCs to achieve programmatic efficiency and reduce utility costs, particularly as PHAs transition to asset management.

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**PIH 2011-37**, “Extension: Information and Procedures for Implementation of Capital Funds Recovery Competition Grants” issued July 13, 2011. This notice provides Public Housing Agencies and HUD Field Offices with processing information regarding the implementation of Capital Funds Recovery Competition (CFRC) grants as authorized by the American Recovery and Reinvestment Act of 2009 (“Recovery Act”).

**PIH 2011-38**, “Public Housing Development Costs Limits” issued July 20, 2011. The purpose of this Notice is to (a) Explain procedures for establishing public housing development cost limits; (b) Explain procedures for the annual posting of TDC limits to the HUD website and notification to Public Housing Authorities (PHAs). This Notice is applicable to the development and/or modernization of public housing and eligible home ownership under a HOPE VI Grant Agreement between HUD and a PHA and/or under the Capital Fund Program through an Annual Contributions Contract (ACC). This Notice does not apply to Native American housing.

**PIH 2011-44**, “Guidance on EPA’s Lead-Based Paint Renovation, Repair and Painting (RRP) Rule, HUD’s Lead Safe Housing Rule, and the EPA-HUD Lead Disclosure Rule” issued July 29, 2011. This Notice provides guidance to public housing agencies (PHAs) and Housing Choice Voucher (HCV) property owners and summarizes the regulations pertaining to lead-based paint under the Environmental Protection Agency’s (EPA’s) Renovation, Repair and Painting (RRP) Rule at 40 CFR Part 745, and HUD’s regulations at 24 CFR Part 35, commonly known as the Lead Safe Housing Rule (LSHR) and the Lead Disclosure Rule (LDR). Additionally, PHAs must incorporate ongoing lead-based paint maintenance and reevaluation activities into regular building operations.

To view the notices: <http://www.hud.gov/offices/pih/publications/notices/>

## Work Preferences Used to Manage Public Housing Waiting Lists

Due to a strong demand for affordable housing, many public housing agencies (PHA) implement local preferences to manage their waiting lists. A PHA’s classification of local preferences may include a preference for working families. PHAs adopt preferences based on local housing needs and must inform all applicants of such preferences allowing them an opportunity to demonstrate they qualify.

Recently HUD issued Notice PIH 2011-33 in which the use of work preferences as a waiting list management tool and lease provision is reviewed. The notice contains relevant information for PHAs wishing to establish such a preference. Applicants where the head and spouse, or sole member is age 62 or older, or is a person with disabilities must be given benefit of this preference. PHAs must include any adopted working preference in their Annual Plan and Admission and Continued Occupancy Policy (ACOP) and must adhere to non-discriminatory and equal opportunity requirements.

Contained in this Notice are suggestions for implementing a work preference including providing this benefit for a head of household who is the main person caring for a disabled household member, or is receiving aid under a State administered welfare program or State program subsidized under Part A of Title IV of the Social Security Act. PHAs establishing such a preference may not require a person to be working in order to be placed on the waiting list and must ensure implementation of this preference furthers fair housing standards.

The notice also discusses lease provisions with a working preference whereby the lease may require a certain number of hours per week that a person is required to work. An important stipulation to this is a PHA may not terminate assistance from the public housing program due to unemployment, underemployment or otherwise failing to meet the work activity requirement. A PHA may choose to relocate households to another public housing unit for those that are noncompliant. This does not apply to a tenant who becomes unemployed or underemployed as a result of becoming disabled. Additionally, HUD encourages PHAs to give residents time to search for new employment or enroll in job training.

HUD provides in the Notice other guidance for PHAs to consider prior to implementing such a preference or lease provision. For more information go to: <http://portal.hud.gov/hudportal/documents/huddoc?id=pih2011-33.pdf>

### Contact us:

Public and Indian Housing Information  
Resource Center (PIH IRC)  
2614 Chapel Lake Drive  
Gambrills, MD 21054  
Toll free number: 1-800-955-2232  
Fax number: 1-443-302-2084  
E-mail: [pihirc@firstpic.org](mailto:pihirc@firstpic.org)  
(Put “HUD PHM Newsletter” in the subject line)

### Upcoming Events

PHADA 2011 Legislative Forum  
September 11-13, 2011 | Washington, DC  
<http://www.phada.org/conferences/2011forum/index.php>

Solutions for Sustainable Communities: 2011 Learning Conference on  
State and Local Housing Policy  
September 26-28, 2011 | Washington, DC  
<http://www.nhc.org/2011-Learning-Conference.html>

