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Final Rule Published on Use of Public Housing Capital Funds for Financing Activities

HUD recently issued a final rule on the use of public housing Capital Funds for financing activities to permit public housing agencies (PHAs) to use proceeds of their Capital Fund program for financing activities that consist of debt service payment and housing development and modernization activities. The final rule only addresses the Capital Fund Financing Program (CFFP), not Operating Funds for financing activities, as the proposed rule had. This change is due to public comments submitted during the proposed rule phase; HUD has determined that further consideration must be given before issuing a final rule on Operating Fund use. The final rule on the Capital Fund component outlines key changes to the CFFP. The final rule recodifies subpart E of part 905 and redesignates sections accordingly. Additionally, it permits PHAs to pledge up to 100 percent of their replacement housing factor (RHF) funds for debt service “provided that such pledge constitutes no more than 50 percent of the PHA’s combined future Capital Funds.” The final rule provides examples of the potential impact of the 50 percent cap. PHAs may pledge up to 33 percent of future Capital Fund grants as clarified in this rule. The final rule streamlines procedures for mixed-finance proposals and Capital Fund Financing Proposals from PHAs: “(1) That are standard or high performers under the Public Housing Assessment System (PHAS) and have cumulative CFFP transactions of less than \$2 million, or (2) that are high PHAS performers and have cumulative CFFP transactions of less than \$20 million.” The final rule details the submital requirements for a Capital Fund Financing Proposal including the contents of the transmittal letter.

For more detailed information on the final rule published October 21, 2010, go to: http://www.access.gpo.gov/su_docs/fedreg/a101021c.html

PIH Notices

PIH Notice 2010-44, “Revision and Extension of Guidance on requirement for PHAs to record current Declaration of Trusts (DOTs) against all public housing property and guidance on adding and removing public housing units and other property from the Annual Contributions Contract (ACC),” issued October 20, 2010. This Notice provides guidance on how PHAs should add and remove public housing units and other property from the ACC. This Notice makes minor changes to 2009-28 (HA). HUD considers that all PHAs should now be compliant with DOT requirements, such that HUD could, at any time, conduct selective monitoring to verify this compliance. Also, when seeking approval for use of Operating Funds and Capital Funds under the Operating Fund or Capital Fund Finance Program for development or rehabilitation of public housing property, any prior approval is now required to be written approval.

PIH Notice 2010-45, “Financial Reporting Requirements for the Housing Choice Voucher Program Submitted through the Financial Assessment Subsystem for Public Housing and the Voucher Management System,” issued October 29, 2010. This Notice clarifies the financial reporting requirements and deadlines for those PHAs that administer the HCV and HCV-related programs (Disaster Voucher Program (DVP), Disaster Housing Assistance Program – Ike (DHAP-Ike), Disaster Housing Assistance Program, Moderate Rehabilitation (Mod Rehab) and Mainstream 5-Year program (MS5), if applicable).

To view the Notices: <http://bit.ly/fyrSsO>

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 (Put “HUD Asset Management Newsletter” in the subject line)

UPCOMING DATES

On September 29, Congress passed a continuing resolution (CR) to continue funding all Federal agencies, including HUD at FY 2010 levels. The FY 2011 appropriations bills are still in progress. Look for another CR prior to December 3—the expiration date of the first CR.

