

(i) The consumption level that would have been expected if the energy conservation measure had not been undertaken would be adjusted for any change in utility rate and may be adjusted, subject to HUD approval, using a heating degree day adjustment for space heating utilities;

(ii) The actual cost of energy (of the type affected by the energy conservation measure) after implementation of the energy conservation measure would be subtracted from the expected energy cost, to produce the energy cost savings for the year. (See also paragraph (b)(2)(i) of this section for retention of consumption savings.)

(2) If the cost savings for any year during the contract period is less than the amount of operating subsidy to be made available under this paragraph (c) to pay for the energy conservation measure in that year, the deficiency will be offset against the PHA's operating subsidy eligibility for the PHA's next fiscal year.

(3) If energy cost savings are less than the amount necessary to meet amortization payments specified in a contract, the contract term may be extended (up to the 12-year limit) if HUD determines that the shortfall is the result of changed circumstances rather than a miscalculation or misrepresentation of projected energy savings by the contractor or PHA. The contract term may only be extended to accommodate payment to the contractor and associated direct costs.

(d) *Additional HUD-initiated adjustments.* Notwithstanding any other provisions of this subpart, HUD may at any time make an upward or downward adjustment in the amount of the PHA's operating subsidy as a result of data subsequently available to HUD which alters projections upon which the approved operating subsidy was based. If a downward adjustment would cause a severe financial hardship on the PHA, the HUD Field Office may establish a recovery schedule which represents the minimum number of years needed for repayment.

§ 990.111 Submission and approval of operating subsidy calculations and budgets.

(a) *Required documentation.* (1) Prior to the beginning of its fiscal year, the PHA shall prepare an operating budget in a manner prescribed by HUD. The Board of Commissioners shall review and approve the budget by resolution. Each fiscal year, the PHA shall submit to the HUD Field Office, in a time and manner prescribed by HUD, the approved board resolution and the required operating subsidy eligibility calculation forms. The PHA shall submit revised calculations in support of any adjustments based on procedures prescribed by HUD.

(2) HUD may direct the PHA to submit its complete operating budget if the PHA has failed to achieve certain specified operating standards, or for other reasons which in HUD's determination threaten the PHA's future serviceability, efficiency, economy, or stability.

(b) *HUD operating budget review.* (1) The HUD Field Office will perform a detailed review on operating budgets that are subject to HUD review and approval. If the HUD Field Office finds that an operating budget is incomplete, includes illegal or ineligible expenditures, mathematical errors, errors in the application of accounting procedures, or is otherwise unacceptable, the HUD Field Office may at any time require the submission by the PHA of further information regarding an operating budget or operating budget revision.

(2) When the PHA no longer is operating in a manner that threatens the future serviceability, efficiency, economy, or stability of the housing it operates, HUD will notify the PHA that it no longer is required to submit a complete operating budget to HUD for review and approval.

(c) *Compliance with environmental review requirements.*—(1) *General.* Operating subsidy funds made available to a

PHA to support the operation and management of public housing are generally for activities that are not subject to environmental review requirements. A PHA, however, may use public housing program resources (including operating subsidy funds, rental and nonrental income, and operating reserves) to carry out non-routine maintenance and capital expenditure activities that may require an environmental review, as those activities are defined in HUD's prescribed Chart of Accounts.

(2) *Initial operating budget.* The ACC requires that operating expenditures may not be incurred except pursuant to an approved operating budget. Before the funding of non-routine maintenance and capital expenditure activities may be incorporated into the PHA's initial operating budget, and before the PHA may commit any funds to such activities, the PHA must obtain either:

(i) An environmental review from the Responsible Entity and submit and receive HUD approval of a Request for Release of Funds under part 58 of this title, or, in cases where HUD has determined to do an environmental review under part 50 of this title, the PHA must obtain an environmental approval from HUD; or

(ii) A determination from the Responsible Entity under part 58 of this title that the PHA's proposed non-routine maintenance and capital expenditure activities are exempt from environmental review in accordance with § 58.34(a)(12) of this title.

(3) *Revisions to operating budget.* If subsequent to adoption of its initial operating budget, a PHA determines to undertake a new non-routine maintenance or capital expenditure activity, the PHA must obtain an environmental review and release of funds, HUD environmental approval, or an exemption from such review, as described in paragraph (c)(2) of this section, before the funding of the activity may be incorporated into a revised operating budget and before the PHA may commit any funds to such activities.

(4) *Determination of exempt activities.* If the Responsible Entity documents that a proposed non-routine maintenance or capital expenditure activity is an ex-

empt activity, as described in paragraph (c)(2)(ii) of this section, no further action is required from the PHA and the activity may be incorporated into the PHA's initial or revised operating budget, as appropriate.

§ 990.112 Payments procedure for operating subsidy under the Operating Fund Formula.

(a) *General.* Subject to the availability of funds, payments of operating subsidy under the Operating Fund Formula shall be made generally by electronic funds transfers, based on a schedule submitted by the PHA and approved by HUD. The schedule may provide for several payments per month. If a PHA has an unanticipated, immediate need for disbursement of approved operating subsidy, it may make an informal request to HUD to revise the approved schedule. (Requests by telephone are acceptable.)

(b) *Payments procedure.* In the event that the amount of operating subsidy has not been determined by HUD as of the beginning of a PHA's budget year under this part, annual or monthly or quarterly payments of operating subsidy shall be made, as provided in paragraph (a) of this section, based upon the amount of the PHA's operating subsidy for the previous budget year or such other amount as HUD may determine to be appropriate.

(c) *Availability of funds.* In the event that insufficient funds are available to make payments approvable under the Operating Fund Formula for operating subsidy payable by HUD, HUD shall have complete discretion to revise, on a pro rata basis or other basis established by HUD, the amounts of operating subsidy to be paid to PHAs.

§ 990.113 Payments of operating subsidy conditioned upon reexamination of income of families in occupancy.

(a) *Policy.* The income of each family must be reexamined at least annually. PHAs must be in compliance with this reexamination requirement to be eligible to receive full operating subsidy payments.

(b) *PHAs in compliance with requirements.* Each submission of the original