

**§ 990.116**

Fund Formula is applicable. However, for purposes of asset management, as described in subpart H of this part, projects may be as identified under the ACC or may be a reasonable grouping of projects or portions of a project or projects under the ACC.

*Project-based management* is the provision of property management services that is tailored to the unique needs of each property, given the resources available to that property.

*Project expense level (PEL)* is the amount of estimated expenses for each project (excluding utilities and additions) expressed as a PUM cost.

*Project units* means all dwelling units in all of a PHA's projects under an ACC.

*Rolling base consumption level (RBCL)* is the average of the yearly consumption levels for the 36-month period ending on the June 30th that is 18 months prior to the beginning of the applicable funding period.

*Transition funding* is the timing and amount by which a PHA will realize increases and reductions in operating subsidy based on the new funding levels of the Operating Fund Formula.

*Unit months* are the total number of project units in a PHA's inventory expressed in months for a specified time frame.

*Utilities* means electricity, gas, heating fuel, water, and sewerage service.

*Utilities expense level (UEL)* is a product of the utility rate multiplied by the payable consumption level multiplied by the utilities inflation factor expressed as a PUM dollar amount.

*Utility rate (rate)* means the actual average rate for any given utility for the most recent 12-month period that ended the June 30th prior to the beginning of the applicable funding period.

*Yearly consumption level* is the actual amount of each utility consumed at a project during a 12-month period ending June 30th.

**§ 990.116 Environmental review requirements.**

The environmental review procedures of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) and the implementing regulations at 24 CFR parts 50 and 58 are applicable to the Operating Fund Program.

**24 CFR Ch. IX (4-1-06 Edition)**

**Subpart B—Eligibility for Operating Subsidy; Computation of Eligible Unit Months**

**§ 990.120 Unit months.**

(a) Some of the components of HUD's Operating Fund Formula are based on a measure known as unit months. Unit months represent a PHA's public housing inventory during a specified period of time. The unit months eligible for operating subsidy in a 12-month period are equal to the number of months that the units are in an operating subsidy-eligible category, adjusted for changes in inventory (*e.g.*, units added or removed), as described below.

(b) A PHA is eligible to receive operating subsidy for a unit on the date it is both placed under the ACC and occupied. The date a unit is eligible for operating subsidy does not change the Date of Full Availability (DOFA) or the date of the End of Initial Operating Period (EIOP), nor does this provision place a project into management status.

**§ 990.125 Eligible units.**

A PHA is eligible to receive operating subsidy for public housing units under an ACC for:

- (a) Occupied dwelling units as defined in § 990.140;
- (b) A dwelling unit with an approved vacancy (as defined in § 990.145); and
- (c) A limited number of vacancies (as defined in § 990.150).

**§ 990.130 Ineligible units.**

(a) Vacant units that do not fall within the definition of § 990.145 or § 990.150 are not eligible for operating subsidy under this part.

(b) Units that are eligible to receive an asset-repositioning fee, as described in § 990.190(h), are not eligible to receive operating subsidy under this subpart.

**§ 990.135 Eligible unit months (EUMs).**

(a) A PHA's total number of EUMs will be calculated for the 12-month period from July 1st to June 30th that is prior to the first day of the applicable funding period, and will consist of eligible units as defined in § 990.140, § 990.145, or § 990.150.

(b)(1) The determination of whether a public housing unit satisfies the requirements of § 990.140, § 990.145, or § 990.150 for any unit month shall be based on the unit's status as of either the first or last day of the month, as determined by the PHA.

(2) HUD reserves the right to determine the status of any and all public housing units based on information in its information systems.

(c) The PHA shall maintain and, at HUD's request, shall make available to HUD, specific documentation of the status of all units, including, but not limited to, a listing of the units, street addresses or physical address, and project/management control numbers.

(d) Any unit months that do not meet the requirements of this subpart are not eligible for operating subsidy, and will not be subsidized by the Operating Fund.

#### § 990.140 Occupied dwelling units.

A PHA is eligible to receive operating subsidy for public housing units for each unit month that those units are under an ACC and occupied by a public housing-eligible family under lease.

#### § 990.145 Dwelling units with approved vacancies.

(a) A PHA is eligible to receive operating subsidy for vacant public housing units for each unit month the units are under an ACC and meet one of the following HUD-approved vacancies:

(1) *Units undergoing modernization.* Vacancies resulting from project modernization or unit modernization (such as work necessary to reoccupy vacant units) provided that one of the following conditions is met:

(i) The unit is undergoing modernization (*i.e.*, the modernization contract has been awarded or force account work has started) and must be vacant to perform the work, and the construction is on schedule according to a HUD-approved PHA Annual Plan; or

(ii) The unit must be vacant to perform the work and the treatment of the vacant unit is included in a HUD-approved PHA Annual Plan, but the time period for placing the vacant unit under construction has not yet expired. The PHA shall place the vacant unit

under construction within two federal fiscal years (FFYs) after the FFY in which the capital funds are approved.

(2) *Special use units.* Units approved and used for resident services, resident organization offices, and related activities, such as self-sufficiency and anti-crime initiatives.

(b) On a project-by-project basis, subject to prior HUD approval and for the time period agreed to by HUD, a PHA shall receive operating subsidy for the units affected by the following events that are outside the control of the PHA:

(1) *Litigation.* Units that are vacant due to litigation, such as a court order or settlement agreement that is legally enforceable; units that are vacant in order to meet regulatory and statutory requirements to avoid potential litigation (as covered in a HUD-approved PHA Annual Plan); and units under voluntary compliance agreements with HUD or other voluntary compliance agreements acceptable to HUD (*e.g.*, units that are being held vacant as part of a court-order, HUD-approved desegregation plan, or voluntary compliance agreement requiring modifications to the units to make them accessible pursuant to 24 CFR part 8).

(2) *Disasters.* Units that are vacant due to a federally declared, state-declared, or other declared disaster.

(3) *Casualty losses.* Damaged units that remain vacant due to delays in settling insurance claims.

(c) A PHA may appeal to HUD to receive operating subsidy for units that are vacant due to changing market conditions (see subpart G of this part—Appeals).

#### § 990.150 Limited vacancies.

(a) *Operating subsidy for a limited number of vacancies.* HUD shall pay operating subsidy for a limited number of vacant units under an ACC if the annualized vacancy rate is less than or equal to:

(1) Three percent of the PHA's total unit inventory (not to exceed 100 percent of the unit months under an ACC) for the period July 1, 2004, to June 30, 2005, and

(2) Three percent of the total units on a project-by-project basis based on