

## § 990.220

## 24 CFR Ch. IX (4-1-08 Edition)

in the MTW agreements. A PHA must be in compliance with all reexamination requirements in order to be eligible to receive full operating subsidy. A PHA's calculations of rent and utility allowances shall be accurate and timely.

(b) *A PHA in compliance.* A PHA shall submit a certification that states that the PHA is in compliance with the annual income reexamination requirements and its rent and utility allowance calculations have been or will be adjusted in accordance with current HUD requirements and regulations.

(c) *A PHA not in compliance.* Any PHA not in compliance with annual income reexamination requirements at the time of the submission of the calculation of operating subsidy shall furnish to the responsible HUD field office a copy of the procedures it is using to achieve compliance and a statement of the number of families that have undergone reexamination during the 12 months preceding the current funding cycle. If, on the basis of this submission or any other information, HUD determines that the PHA is not substantially in compliance with all of the annual income reexamination requirements, HUD shall withhold payments to which the PHA may be entitled under this part. Payment may be withheld in an amount equal to HUD's estimate of the loss of rental income to the PHA resulting from its failure to comply with the requirements.

### Subpart F—Transition Policy and Transition Funding

#### § 990.220 Purpose.

This policy is aimed at assisting all PHAs in transitioning to the new funding levels as determined by the formula set forth in this rule. PHAs will be subject to a transition funding policy that will either increase or reduce their total operating subsidy for a given year.

#### § 990.225 Transition determination.

The determination of the amount and period of the transition funding shall be based on the difference in subsidy levels between the formula set forth in this part and the formula in effect prior to implementation of the formula

set forth in this part. The difference in subsidy levels will be calculated using FY 2004 data. When actual data are not available for one of the formula components needed to calculate the formula of this part for FY 2004, HUD will use alternate data as a substitute (*e.g.*, unit months available for eligible unit months, etc.) If the difference between these formulas indicates that a PHA shall have its operating subsidy reduced as a result of this formula, the PHA will be subject to a transition policy as indicated in § 990.230. If the difference between these formulas indicates that a PHA will have its operating subsidy increased as a result of this formula, the PHA will be subject to the transition policy as indicated in § 990.235.

[70 FR 54997, Sept. 19, 2005; 70 FR 61367, Oct. 24, 2005]

#### § 990.230 PHAs that will experience a subsidy reduction.

(a) For PHAs that will experience a reduction in their operating subsidy, as determined in § 990.225, such reductions will have a limit of:

(1) 5 percent of the difference between the two funding levels in the first year of implementation of the formula contained in this part;

(2) 24 percent of the difference between the two funding levels in the second year of implementation of the formula contained in this part;

(3) 43 percent of the difference between the two levels in the third year of implementation of the formula contained in this part;

(4) 62 percent of the difference between the two levels in the fourth year of implementation of the formula contained in this part; and

(5) 81 percent of the difference between the two levels in the fifth year of implementation of the formula contained in this part.

(b) The full amount of the reduction in the operating subsidy level shall be realized in the sixth year of implementation of the formula contained in this part.

(c) For example, a PHA has a subsidy reduction from \$1 million, under the formula in effect prior to implementation of the formula contained in this

part, to \$900,000, under the formula contained in this part using FY 2004 data. The difference would be calculated at \$100,000 (\$1 million - \$900,000 = \$100,000). In the first year, the subsidy reduction would be limited to \$5,000 (5 percent of the difference). Thus, the PHA would receive an operating subsidy amount pursuant to this rule plus a transition-funding amount of \$95,000 (the \$100,000 difference between the two subsidy amounts minus the \$5,000 reduction limit).

(d) If a PHA can demonstrate a successful conversion to the asset manage-

ment requirements of subpart H of this part, as determined under paragraph (f) of this section, HUD will discontinue the reduction at the PHA's next subsidy calculation following such demonstration, as reflected in the schedule in paragraph (e) of this section, notwithstanding §990.290(c).

(e) The schedule for successful demonstration of conversion to asset management for discontinuation of PHA subsidy reduction is reflected in the table below:

STOP-LOSS DEMONSTRATION TIME LINE AND EFFECTIVE DATES

Demonstration date by	Applications due	Reduction stopped at	Reduction effective for
September 30, 2007 .....	October 15, 2007 .....	5 percent of the PUM difference.	Calendar Year 2007 and thereafter.
April 1, 2008 .....	April 15, 2008 .....	24 percent of the PUM difference.	Calendar Year 2008 and thereafter.
October 1, 2008 .....	October 15, 2008 .....	43 percent of the PUM difference.	Calendar Year 2009 and thereafter.
October 1, 2009 .....	October 15, 2009 .....	62 percent of the PUM difference.	Calendar Year 2010 and thereafter.
October 1, 2010 .....	October 15, 2010 .....	81 percent of the PUM difference.	Calendar Year 2011 and thereafter.

(f)(1) For purposes of this section, compliance with the asset management requirements of subpart H of this part will be based on an independent assessment conducted by a HUD-approved professional familiar with property management practices in the region or state in which the PHA is located.

(2) A PHA must select from a list of HUD-approved professionals to conduct the independent assessment. The professional review and recommendation will then be forwarded to the Assistant Secretary for Public and Indian Housing (or designee) for final determination of compliance with the asset management requirements of subpart H of this part.

(3) Upon completion of the independent assessment, the assessor shall conduct an exit conference with the PHA. In response to the exit conference, the PHA may submit a management response and other pertinent information (including, but not limited to, an additional assessment procured at the PHAs' own expense) within ten working days of the exit conference to be included in the report submitted to HUD.

(4) In the event that HUD is unable to produce a list of independent assessors on a timely basis, the PHA may submit its own demonstration of a successful conversion to asset management directly to HUD for determination of compliance.

(5) The Assistant Secretary for Public and Indian Housing (or designee) shall consider all information submitted and respond with a final determination of compliance within 60 days of the independent assessor's report being submitted to HUD.

[70 FR 54997, Sept. 19, 2005; 70 FR 61367, Oct. 24, 2005, as amended at 72 FR 45874, Aug. 15, 2007]

**§ 990.235 PHAs that will experience a subsidy increase.**

(a) For PHAs that will experience a gain in their operating subsidy, as determined in §990.225, such increases will have a limit of 50 percent of the difference between the two funding levels in the first year following implementation of the formula contained in this part.