

Indian Housing, the Section 23 Leased Housing Program, the Section 23 Housing Assistance Payments Program, the Section 8 Housing Assistance Payments Program, or the Turnkey III or Turnkey IV Homeownership Opportunity Programs. PFS is not applicable to housing owned by the PHAs of the Virgin Islands, Puerto Rico, Guam, and Alaska. Operating subsidy payments to these PHAs are made in accordance with subpart B of this part. PFS for Indian Housing is described in 24 CFR part 950.

(b) *Financial management, monitoring and reporting.* The financial management system, monitoring and reporting on program performance and financial reporting will be in compliance with 24 CFR 85.20, 85.40 and 85.41 except to the extent that HUD requirements provide for additional specialized procedures which are determined by HUD to be necessary for the proper management of the program in accordance with the requirements of the U.S. Housing Act of 1937 and the Annual Contributions Contracts between the PHAs and HUD.

[41 FR 55676, Dec. 21, 1976. Redesignated at 49 FR 6714, Feb. 23, 1984, and amended at 53 FR 8067, Mar. 11, 1988; 56 FR 923, Jan. 9, 1991; 61 FR 17539, Apr. 19, 1996]

**§ 990.104 Determination of amount of operating subsidy under PFS.**

(a) The amount of operating subsidy for which each PHA is eligible shall be determined as follows: The Projected Operating Income Level is subtracted from the total expense level (Allowable Expense Level plus Utilities Expense Level). These amounts are per unit per month dollar amounts, and must be multiplied by the Unit Months Available. Transition Funding, if applicable, and other costs as specified in § 990.108 are then added to this total in order to determine the total amount of operating subsidy for the Requested Budget Year, exclusive of consideration of the cost of an independent audit. As an independent operating subsidy eligibility factor, a PHA may receive operating subsidy in an amount, approved by HUD, equal to the actual or estimated cost of an independent audit to be prorated to operations of the PHA-owned rental housing. See § 990.110 regarding adjustments.

(b) In the case of a PHA development involving the acquisition of scattered site housing, the PHA may submit, and HUD shall review and can approve, a revised Development Cost Budget reflecting the number of units that were occupied during the previous six months, and the Unit Months Available used in the calculation of operating subsidy eligibility shall be revised to include the number of months the new/acquired units are actually occupied.

(c) A special phase-down of subsidy to HAs is applicable when demolition of units is approved by HUD in Federal Fiscal Year 1995 and later. See § 990.114.

[41 FR 55676, Dec. 21, 1976; 42 FR 18064, Apr. 5, 1977; 48 FR 42812, Sept. 20, 1983. Redesignated at 49 FR 6714, Feb. 23, 1984, and amended at 50 FR 39092, Sept. 27, 1985; 51 FR 30480, Aug. 27, 1986; 52 FR 29361, Aug. 6, 1987; 60 FR 57305, Nov. 14, 1995; 61 FR 7591, Feb. 28, 1996; 61 FR 51183, Sept. 30, 1996]

**§ 990.105 Computation of allowable expense level.**

The PHA shall compute its Allowable Expense Level using forms prescribed by HUD, as follows:

(a) *Computation of Base Year Expense Level.* The Base Year Expense Level includes Payments in Lieu of Taxes (PILOT) required by a Cooperation Agreement even if PILOT is not included in the Operating Budget for the Base Year because of a waiver of the requirements by the local taxing jurisdiction(s). The Base Year Expense Level includes all other operating expenditures as reflected in the PHA's Operating Budget for the Base Year except the following:

- (1) Utilities expense;
- (2) Cost of an independent audit;
- (3) Adjustments applicable to budget years before the Base Year;
- (4) Expenditures supported by supplemental subsidy payments applicable to budget years before the Base Year;
- (5) All other expenditures which are not normal fiscal year expenditures as to amount or as to the purpose for which expended; and
- (6) Expenditures which were funded from a nonrecurring source of income.

(b) *Adjustment.* In compliance with the above six exclusions, the PHA shall adjust the Allowable Expense Level by excluding any of these items from the Base Year Expense Level if this has not

already been accomplished. If such adjustment is made in the second or some subsequent fiscal year of the PFS, the Allowable Expense Level shall be adjusted in the year in which the adjustment is made, but the adjustment shall not be applied retroactively. If the PHA does not make these adjustments, the HUD Field Office shall compute the adjustments.

(c) *Computation of Formula Expense Level.* The PHA shall compute its Formula Expense Level in accordance with a HUD-prescribed formula that estimates the cost of operating an average unit in a particular PHA's inventory. It uses weights and a Local Inflation Factor assigned each year to derive a Formula Expense Level for the current year and the requested budget year. The formula is the sum of the following six numbers and the weights of the formula and the formula are subject to updating by HUD:

(1) The number of pre-1940 rental units occupied by poor households in 1980 as a percentage of the 1980 population of the community multiplied by a weight of 7.954. This Census-based statistic applies to the county of the PHA, except that, if the PHA has 80 percent or more of its units in an incorporated city of more than 10,000 persons, it uses city-specific data. County data will exclude data for any incorporated cities of more than 10,000 persons within its boundaries.

(2) The Local Government Wage Rate multiplied by a weight of 116.496. The wage rate used is a figure determined by the Bureau of Labor Statistics. It is a county-based statistic, calibrated to a unit-weighted PHA standard of 1.0. For multi-county PHAs, the local government wage is unit-weighted. For this formula, the local government wage index for a specific county cannot be less than 85 percent or more than 115 percent of the average local government wage for counties of comparable population and metro/non-metro status, on a state-by-state basis. In addition, for counties of more than 150,000 population in 1980, the local government wage cannot be less than 85 percent or more than 115 percent of the wage index of private employment determined by the Bureau of Labor Statistics and the rehabilitation cost

index of labor and materials determined by the R.S. Means Company.

(3) The lesser of the current number of the PHA's two or more bedroom units available for occupancy, or 15,000 units, multiplied by a weight of .002896.

(4) The current ratio of the number of the PHA's two or more bedroom units available for occupancy in high-rise family projects to the number of all the PHA's units available for occupancy multiplied by a weight of 37.294. For this indicator, a high-rise family project is defined as averaging 1.5 or more bedrooms per unit available for occupancy and averaging 35 or more units available for occupancy per building and containing at least one building with units available for occupancy that is 5 or more stories high.

(5) The current ratio of the number of the PHA's three or more bedroom units available for occupancy to the number of all the PHA's units available for occupancy multiplied by a weight of 22.303.

(6) An equation calibration constant of  $-.2344$ .

(d) *Computation of Allowable Expense Level.* The PHA shall compute its Allowable Expense Level as follows:

(1) *Allowable Expense Level for first budget year under PFS where Base Year Expense Level does not exceed the top of the range.* Every PHA whose Base Year Expense Level is less than the top of the range shall compute its Allowable Expense Level for the first budget year under the PFS by adding the following to its Base Year Expense Level (before adjustments under § 990.110):

(i) Any increase approved by HUD in accordance with § 990.110;

(ii) The increase (decrease) between the Formula Expense Level for the Base Year and the Formula Expense Level for the first budget year under PFS; and

(iii) The sum of the Base Year Expense Level, and any amounts described in paragraphs (d)(1) (i) and (ii) of this section multiplied by the Local Inflation Factor.

(2) *Allowable Expense Level for first budget year under PFS where Base Year Expense Level exceeds the top of the range.* Every PHA whose Base Year Expense Level exceeds the top of the

range shall compute its Allowable Expense Level for the first budget year under PFS by adding the following to the top of the range (not to its Base Year Expense Level, as in paragraph (d)(1) of this section):

(i) The increase (decrease) between the Formula Expense Level for the Base Year and the Formula Expense Level or the first budget year under PFS;

(ii) The sum of the figure equal to the top of the range and the increase (decrease) described in paragraph (d)(2)(i) of this section, multiplied by the Local Inflation Factor. (If the Base Year Expense Level is above the Allowable Expense Level, computed as provided above, the PHA may be eligible for Transition Funding under § 990.106.)

(3) *Allowable Expense Level for first budget year under PFS for a new project.* A new project of a new PHA or a new project of an existing PHA that the PHA decides to place under a separate ACC, which did not have a sufficient number of units available for occupancy in the Base Year to have a level of operations representative of a full fiscal year of operation is considered to be a "new project". The AEL for the first budget year under PFS for a "new project" will be based on the AEL for a comparable project, as determined by the HUD field office. The PHA may suggest a project or projects it believes to be comparable.

(4) *Allowable Expense Level for budget years after the first budget year under PFS.* For each budget year after the first budget year under PFS, the AEL shall be computed as follows:

(i) The Allowable Expense Level shall be increased by any increase to the AEL approved by HUD under § 990.108(c);

(ii) The AEL for the Current Budget Year also shall be adjusted as follows:

(A) Increased by one-half of one percent (.5 percent); and

(B) If the PHA has experienced a change in the number of units in excess of 5 percent or 1,000 units, whichever is less, since the last adjustment to the AEL based on this paragraph, it shall use the increase (decrease) between the Formula Expense Level calculated using the PHA's characteristics that applied to the Requested Year when

the last adjustment to the AEL was made based on this paragraph and the Formula Expense Level calculated using the PHA's characteristics for the Requested Budget Year.

(iii) The amount computed in accordance with paragraphs (d)(4) (i) and (ii) of this section shall be multiplied by the Local Inflation Factor.

(5) *Adjustment of Allowable Expense Level for budget years after the first budget year under PFS.* HUD may adjust the Allowable Expense Level of budget years after the first year under PFS under the provisions of § 990.105(b) or § 990.108(c).

(6) *Allowable Expense Level for budget years after the first budget year under PFS that begin on or after April 1, 1992.* For each budget year after the first budget year under PFS that begins on or after April 1, 1992, the AEL shall be computed as follows:

(i) The Allowable Expense Level shall be increased by any increase to the AEL approved by HUD under § 990.108(c);

(ii) The AEL for the Current Budget Year also shall be adjusted as follows:

(A) Increased by one-half of one percent (.5 percent); and

(B) If the PHA has experienced a change in the number of units in excess of 5 percent or 1,000 units, whichever is less, since the last adjustment to the AEL based on paragraph (d)(4) or (d)(5)(ii)(B) of this section or this paragraph, it shall use the increase (decrease) between the Formula Expense Level calculated using the PHA's characteristics that applied to the Requested Year when the last adjustment to the AEL was made based on paragraph (d)(5)(ii)(B) or this paragraph (d)(6)(ii)(B) and the Formula Expense Level calculated using the PHA's characteristics for the Requested Budget Year.

(iii) The amount computed in accordance with paragraphs (d)(6) (i) and (ii) of this section shall be multiplied by the Local Inflation Factor.

(7) *Adjustment of Allowable Expense Level for budget years after the first budget year under PFS.* HUD may adjust the Allowable Expense Level of budget years after the first year under PFS under the provisions of § 990.105(b) or § 990.108(c).

(e) *Retrospective adjustment.* A PHA may apply a one-time retrospective adjustment to its Allowable Expense Level to compensate for the inadequacy of the inflation factors used in the PFS in the Federal fiscal years 1977 through 1981. This adjustment has the effect of increasing the non-utility portion of the Allowable Expense Level to a level that would have resulted if the proper percentages derived from the combined inflation factor had been used in those years. This adjustment is to be applied to the HUD approved Allowable Expense Level Per Unit Month (PUM) amount for PHA fiscal years beginning January 1, 1981, April 1, 1981, July 1, 1981, or October 1, 1981. Even though the adjustment is termed retrospective, it does not provide additional operating subsidy eligibility for PHA fiscal years before those beginning January 1, 1982. This adjustment shall be applied as follows:

(1) *A PHA:* (i) In operation during the PHA fiscal year beginning January 1, 1977, April 1, 1977, July 1, 1977, or October 1, 1977; or (ii) that started operation after these fiscal years but before the PHA fiscal year of January 1, 1982, April 1, 1982, July 1, 1982, or October 1, 1982; and (iii) that used a comparable PHA's Allowable Expense Level, shall apply the retrospective adjustment percentage provided by HUD.

(2) A PHA that entered operation during the PHA fiscal year beginning January 1, 1978, April 1, 1978, July 1, 1978, or October 1, 1978 but before the PHA fiscal year beginning January 1, 1982, April 1, 1982, July 1, 1982, or October 1, 1982, and that computed its own Allowable Expense Level for purposes of the PFS calculation, shall request the appropriate adjustment percentage from HUD, which will reflect the number of years the PHA has been in operation. This adjustment percentage shall be applied in accordance with this regulation.

(3) A PHA that starts operation during the PHA fiscal year beginning January 1, 1982, April 1, 1982, July 1, 1982, or October 1, 1982, or thereafter, shall not apply an adjustment since its beginning Allowable Expense Level will properly reflect the Local Inflation Factor.

(f) *Adjustment for FY 1989.* To reflect the increased costs incurred by PHAs to obtain required risk protection coverage (through private insurance, PHA sponsored insurance entities, or through self-insurance, as approved in accordance with the ACC), the calculation of AEL for the PHA's fiscal year beginning in 1989 will include an additional step following the determination made in accordance with paragraphs (a) through (e) of this section: the AEL per unit month derived in accordance with those paragraphs is to be adjusted by adding \$8.45. This adjustment is a one-time permanent adjustment made only in fiscal year 1989.

[49 FR 3176, Jan. 26, 1984. Redesignated at 49 FR 6714, Feb. 23, 1984, and amended at 50 FR 39092, Sept. 27, 1985; 50 FR 47374, Nov. 18, 1985; 50 FR 52281, Dec. 23, 1985; 52 FR 29361, Aug. 6, 1987; 53 FR 25155, July 5, 1988; 56 FR 923, Jan. 9, 1991; 57 FR 4289, Feb. 4, 1992; 61 FR 17539, Apr. 19, 1996]

**§ 990.106 Transition funding for excessively high-cost PHAs.**

If a PHA's Base Year Expense Level exceeds its Allowable Expense Level, computed as provided in § 990.105, for any budget year under PFS, the PHA may be eligible for Transition Funding. Transition Funding shall be an amount not to exceed the difference between the Base Year Expense Level and the Allowable Expense Level for the Requested Budget Year, multiplied by the number of Unit Months Available. HUD shall have the right to discontinue payment of all or part of the Transition Funding in the event HUD at any time determines that the PHA has not achieved a satisfactory level of management efficiency, or is not making efforts satisfactory to HUD to improve its management performance.

**§ 990.107 Computation of utilities expense level.**

(a) The PHA's Utilities Expense Level for the requested Budget Year shall be computed by multiplying the AUCL per unit per month for each utility, determined as provided in paragraph (c) of this section, by the projected utility rate determined as provided in paragraph (b) of this section.

(b) *Utilities rates.* (1) The current applicable rates, with consideration of