



**U.S. Department of Housing and Urban Development
Office of Public and Indian Housing**

Special Attention

Public Housing Agencies
Public Housing Hub Office Directors
Public Housing Program Center Directors
Regional Directors
Field Office Directors
Resident Management Corporations

NOTICE PIH-2011 -18 (HA)

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Cross Reference:

SUBJECT: Guidance on the Asset-Repositioning Fee Under 24 CFR 990.190(h) and Guidance on Re-occupying Public Housing Units Proposed or Approved for Demolition, Disposition, or Transition to Homeownership

1. Purpose

This notice provides guidance on the implementation of the asset-repositioning fee (ARF) pursuant to 24 CFR § 990.190(h) and on re-occupying public housing units proposed or approved for demolition, disposition, or transition to homeownership. A PHA that transitions projects or entire buildings of a project out of its public housing inventory is eligible for an asset-repositioning fee. This fee supplements resources available with administration and management of demolition or disposition, tenant relocation, and minimum protection and service associated with such efforts. The ARF is not intended for individual units within a multi-unit building undergoing similar activities.

2. Background

Public housing agencies (PHAs) that transition projects or entire buildings out of their inventories may be eligible for an ARF. The ARF is an add-on used in the calculation of a PHA's operating subsidy eligibility.

3. Requesting the ARF

PHAs must request the ARF using form HUD-52723, Operating Fund Calculation of Operating Subsidy, PHA-Owned Rental Housing. ARF will be calculated in accordance with 24 CFR 990.190(h).

4. **Eligible Units**

The following dwelling units are eligible for the ARF:

- *Units Approved by HUD for Demolition and/or Disposition.* Units must constitute all units in a project or in an entire building in a project. Individual units within a multi-unit building are not eligible for ARF. Eligible demolitions and dispositions are those approved under the regulations at 24 CFR 970 and 972.
- *Units Approved by HUD for Transition to Homeownership.* Units transitioned to homeownership pursuant to a homeownership plan under Section 32 or 5(h) of the United States Housing Act of 1937 (Act) will be eligible for an ARF on a building-to-building basis. The ARF for units transitioned to homeownership will be equal to the ARF for disposition.
- Units approved by HUD for demolition under a HOPE VI Revitalization Plan.

5. **ARF Calculation**

- *Demolition (24 CFR 990.190(h)(3) and 972.112(a)).* Demolition units will be calculated at the rate of 75 percent project expense level (PEL) per unit for the first twelve months, 50 percent PEL per unit for the next twelve months, and 25 percent PEL per unit for the next twelve months.
- *Disposition (24 CFR 990.190(h)(4) and 972.112(b)).* Disposition units will be calculated at the rate of 75 percent PEL per unit for the first twelve months and 50 percent PEL per units for the next twelve months.

6. **Ineligible Units**

Units approved by HUD for voluntary or required conversion pursuant to Section 22 or 33 of Act are not eligible for an ARF unless the conversion plan approved by HUD also includes demolition or disposition approved under 24 CFR 972. Units retained by a PHA after conversion (i.e., the units are neither demolished nor disposed of) and used as low-income housing (with or without tenant-based or project-based assistance) are not eligible for an ARF.

7. **Relocation Date**

The relocation date is the starting point for determining when a building/project is eligible for an ARF based on the approved relocation plan.

- *Section 18 Demolition and/or Disposition.* HUD considers the “relocation date” to be the estimated relocation date included in the PHA’s form HUD-52860, Inventory Removal Application (submitted via the Public and Indian Housing Information Center (PIC)). The application requires PHAs to insert the number of days after HUD approval of the

demolition and/or disposition that it will begin relocating residents. If all units are vacant when the PHA submits its application, the PHA may insert “zero” (0) days. However, if some units approved for demolition and/or disposition are occupied at the time the PHA submits its application, the PHA must enter at least 90 days because 24 CFR 970.21(e)(1) requires PHAs to provide residents with at least 90 days written notice of relocation.

- *HOPE VI Revitalization Plans.* HUD considers the “relocation date” to be the relocation date in a PHA’s Revitalization Plan approved by HUD.
- *Section 32 or 5(h) Homeownership.* HUD considers the “relocation date” to be the date that the last public housing resident occupying a unit approved for transition to homeownership either vacates that unit due to the relocation for the homeownership plan or completes the purchase of that unit through a homeownership plan approved by HUD under Section 32 or 5(h) of the Act. The relocation date for units approved for transition to homeownership will be on a unit-to-unit basis. However, the relocation date of any particular unit must occur after the estimated relocation date that the PHA inserts into form HUD-52860 (submitted via PIC).

8. Amending the Relocation Date

If a significant need occurs for postponing the relocation date that the PHA estimated in its application (e.g., delay in closing or execution of demolition contract), the PHA may request an amendment to the relocation date from its field office. PHAs should make their best efforts in meeting the original relocation date estimated in their application and only request an amendment to the relocation date if the reason for the delay is beyond their control. If a HUD field office approves the amended relocation date, it will notify the PHA and the Special Application Center (SAC) in writing. The SAC will then amend the relocation date in PIC. For purposes of calculating operating subsidy, once a unit is vacated after an existing approved relocation date, the ARF transition period is triggered and the PHA can no longer amend the relocation date.

9. Commencement of ARF

- *Demolition and Disposition.* The ARF does not begin immediately upon HUD’s approval of a demolition and/or disposition. The commencement of the ARF is based on a transition period formula that begins on the first day of the next quarter six months after the first eligible unit becomes vacant due to the removal action after the “relocation date” as defined in Section 7 of this notice.
 - In no instance shall the ARF transition period begin until after the occurrence of the relocation date.
 - If all units are vacant, the transition period for the ARF will begin immediately upon HUD approval of the demolition or disposition.
 - If all or some units are occupied, the transition period for the ARF will begin when the first resident vacates a unit due to the PHA’s implementation of the

relocation plan for the approved demolition and/or disposition and that vacancy occurs on or after the relocation date.

- If the first vacancy occurs after the relocation date for a reason other than the implementation of the relocation plan for the HUD approved demolition and/or disposition, the PHA shall immediately notify its HUD field office that the vacancy is not due to the relocation plan for the demolition and/or disposition.
- *Section 32 or 5(h) Homeownership.* If all or some units are occupied, the transition period for the ARF will begin, on a building-to-building basis, on the first day of the next quarter six months after the “relocation date” of the last unit vacated for homeownership actions (defined in Section 6 of this notice). If all units are vacant (and will not be re-occupied prior to sale to eligible homebuyers), the transition period for the ARF will begin immediately upon HUD approval of the homeownership plan.

HUD field offices will determine the commencement of the ARF transition period based on the relocation date, as well as other information that they may request from a PHA. For instance, a HUD field office may request verification from a PHA that the first vacancy after the relocation date is due to the HUD approved demolition and/or disposition or homeownership plan. PHAs are responsible for accurately maintaining supporting documentation for their relocation dates. If HUD becomes aware of inaccurate information, the ARF may be subject to forfeiture.

Once HUD has approved the relocation date and a vacancy has triggered the ARF transition period, the ARF transition and funding schedule continues uninterrupted until all funding has been paid out. The PHA does not have the option of stopping and restarting the funding period.

10. Phased Demolition and/or Disposition Actions: Different Relocation Dates

PHAs will generally enter all units eligible for ARF into one form HUD-52860, in PIC. However, if a PHA would like to demolish and/or dispose of different buildings (e.g., three high-rise buildings) in one project in multiple phases pursuant to a staggered timeline so that units in the later phases remain eligible for operating subsidy until the implementation of that phase, the PHA should break down its application into multiple application numbers in PIC. If the same supporting documentation applies to all application numbers, the PHA need only submit supporting documentation (e.g., board resolution, government consultation, etc.) with one application number provided that the documentation applies to the property in all application numbers.

By creating a separate application number for each phase, the PHA will be able to designate a separate relocation date for each phase. HUD will approve the demolition and/or disposition for all of the units at the same time and up-front, even though a PHA will be able to implement the demolition and/or disposition (and relocation) in stages. A PHA can also request that a HOPE VI removal be broken down into multiple application numbers. In HUD’s approval documents for such a removal, the different relocation dates will be referred to by application number, such as in the following example:

| Number of Days After HUD Approval That a PHA Will Begin Relocation of Residents | |
|----------------------------------------------------------------------------------------|-----------------------|
| Application Number (for Phase of Application) | Number of Days |
| DDA0001111 | 90 |
| DDA0001112 | 180 |
| DDA0001113 | 270 |

11. Re-occupying Units Proposed or Approved for Demolition and/or Disposition

24 CFR 970.25 provides that a PHA should not re-rent units at turnover while HUD is considering an application for demolition and/or disposition. However, due to community housing needs or for other reasons consistent with its Annual Plan, a PHA may decide it is in the best interests of the PHA, its residents, and the community to re-occupy vacated public housing units that have been approved or are currently under review by HUD for disposition and/or demolition. For instance, a PHA may decide to re-occupy units that are in a subsequent phase of a multi-phased demolition and/or disposition. Therefore, HUD provides flexibility to PHAs to determine their re-occupancy policy and when such units should be re-occupied at turnover. This flexibility is subject to certain constraints:

- If the PHA is demolishing units because they are obsolete, structurally unsound, or otherwise uninhabitable, they may not be reoccupied after the application relocation date.
- To implement a re-occupancy policy for public housing units approved or under review for removal from a PHA's inventory, the PHA should amend its Admissions and Occupancy Policy, and include the subject amendment (re-occupancy policies/procedures as a result of demolition/disposition) by reference in its Annual PHA Plan (24 CFR 903.7, 24 CFR 903.7(r)(2), and 24 CFR 903.21).
- The PHA should develop a lease-addendum specific to those families, who occupy public housing units approved or under review for demolition or disposition (24 CFR 966.4(b)(2)) as re-occupancy of those units is temporary.
- PHAs must provide residents of re-occupied units with the applicable relocation assistance required by 24 CFR 970.21 or the Uniform Relocation Assistance Act of 1970 (42 U.S.C. 4601), as amended.

The re-occupancy of units has no impact on the eligibility or commencement of the ARF for the units.

12. Re-occupying Units Proposed or Approved for Transition to Homeownership

PHAs may re-occupy (at turnover) units that have been approved or are under review by HUD for transition to homeownership up until the particular unit is sold to an eligible homebuyer.

Such units will continue to be eligible for operating subsidy as long as they are occupied by a public housing eligible family under lease.

13. Example: Demolition

The following is an example of how the ARF will be calculated for a demolition (Section 18).

| PHA: 1000 Units in Inventory | |
|-------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Demolition Application: 100-units (all in one development) | |
| October 1, 2008 | SAC approval of Section 18 demolition |
| January 1, 2009 | Relocation date (90 days after SAC approval) |
| January 12, 2009 | First vacancy end of participation (EOP) after relocation date (due to demolition action) |
| October 1, 2009 | PHA is eligible to begin receiving ARF for a 36-month period in accordance with 24 CFR 990.190(h)(3) for the 100 units approved for demolition. PHA continues to be eligible for operating subsidy for the remaining 900 units. (6 months after 1 st vacancy is July 12, 2009) (1 st day of next quarter is October 1, 2009) |

14. Example: Disposition

The following is an example of how the ARF will be calculated for a disposition (Section 18):

| PHA: 1000 Units in Inventory | |
|--------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Disposition Application: 100-units (all in one development) | |
| October 1, 2008 | SAC approval of Section 18 disposition |
| January 1, 2009 | Relocation date (90 days after SAC approval) |
| January 12, 2009 | First vacancy end of participation (EOP) after relocation date (due to disposition action) |
| October 1, 2009 | PHA is eligible to begin receiving ARF for a 24-month period in accordance with 24 CFR 990.190(h)(4) for the 100 units approved for demolition. PHA continues to be eligible to receive operating subsidy for remaining 900 units. (6 months after 1 st vacancy is July 12, 2009) (1 st day of next quarter is October 1, 2009) |

15. Paperwork Reduction Act

The information collection requirements contained in this document are approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). The OMB control numbers are 2577-0029 and 2577-0075.

16. Technical Assistance

For technical assistance related to operating subsidy, please contact your local field office. For technical assistance related to Section 18 demolition and/or disposition actions or Section 32 or 5(h) homeownership actions, please contact the SAC at (312) 353-6236.

/s/

Sandra B. Henriquez, Assistant Secretary for
Public and Indian Housing