

Asset Management, Yes—Micromanagement, No

Constructive solutions from PHADA for implementing the new operating fund rule

The PHADA membership supports the new public housing operating fund formula with its effective date of January 1, 2007. Unfortunately, there are some significant flaws in HUD's implementation of the rule. This will harm all housing authorities, including those expecting gains. PHADA is offering these constructive solutions as a way HUD can implement the rule without delaying the new funding formula.

Inadequate funding

Problems:

- HUD is only providing 78 percent of the funding it says public housing needs.
- Public housing's inflation factor does not include health care costs.
- HUD's formula assumes housing authorities can collect rent on authorized vacant units.

Solutions:

- Fully fund the new rule to achieve parity with HUD's other assisted housing programs.
- Adopt the inflation factor from the negotiated rule, based on Bureau of Labor Statistics data.
- Adopt the system from the negotiated rule for calculating income on vacant units.

Property and asset management fees

Problems:

- HUD is proposing unreasonable property management fees, with guidance that would micromanage the way housing authorities use their funding.
- The asset management and bookkeeping fees in HUD's proposed guidance are "one size fits all" and are based on inadequate data.

Solutions:

- Allow agencies to use transitional property management fees until the 2011 deadline for implementing project-based management.
- Adopt management fees that allow for the regulatory and operating differences between public housing and HUD's assisted multifamily programs.

- Make sure the fee structures for HUD's multifamily programs, which are the basis for the new rule, are consistent and accurate, and adjust them where necessary to apply to public housing properties.
- Consider basing management fees on operating costs, or on standards available for comparable property.
- Account for asset management responsibilities and costs using comparable market standards, such as private owners and project-based Section 8 contract administrators, instead of adopting a fixed nationwide asset management fee.
- Account for geographic and other cost differences in bookkeeping costs and analyze bookkeeping responsibilities and existing data more thoroughly, instead of adopting a fixed nationwide bookkeeping fee.

Maximum flexibility

Problems:

- The new rule calls for housing authorities to have the “maximum flexibility” possible, but HUD’s proposed guidance does not provide the flexibility housing authorities need in order to implement the business plans they have developed for their unique portfolios.
- The rule calls for “reasonable” asset management practices, but HUD is interpreting “reasonable” to mean “the same practices required in HUD multifamily programs,” instead of allowing for the differences between public housing and other assisted housing programs.
- By requiring that centralized front-line costs be paid for out of management fees, HUD is in effect micromanaging PHAs’ organizational structures.
- HUD says that any property with 80 or more units, not in proximity with another property, should be a separate project.

Solutions:

- Implement changes to regulations and support changes to statutory requirements that require public housing to do more than other HUD assisted housing programs. Until these changes are achieved, HUD should provide housing authorities as much flexibility as possible to juggle competing priorities.
- Follow the language in the rule and in the multifamily program handbook, and allow housing authorities to expense centralized front-line functions at the project, on a rational basis.
- Apply the language on fungibility from the final rule to the central office cost center.
- Offer agencies genuine flexibility in determining property groupings, based on local management and financial considerations.

No unauthorized Section 8 or Capital Fund changes

Problems:

- Contrary to federal law and the rule itself, HUD is attempting to apply operating fund rules to Section 8 and the Capital Fund programs.

Solutions:

- Housing authorities should continue to be paid a fee-for-service for each Section 8 unit leased.
- Maintain the current capital fund regulations that allow housing authorities to use some of their Capital Fund resources for operations and administration.

Achievable stop-loss opportunity

Problems:

- HUD has not released guidance for agencies seeking to meet the stop-loss criteria by October 1, 2006. For many housing authorities, this late release of guidance effectively nullifies the opportunity to stop their losses.
- HUD will not tell stop-loss agencies if they have successfully complied with the stop-loss criteria until halfway through the funding year, after they have had to deal with the consequences of withheld funding for six months.

Solutions:

- Provide agencies an opportunity to stop their losses at five percent on October 1, 2006, and comply with reasonable achievable asset management criteria.
- Have complete evaluations October 1, 2007, once the guidance is finished.



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