

\$27 Million Available for Tenant Participation Activities

Public Housing Authorities (PHAs) that receive operating subsidies for public housing units from the Department of Housing and Urban Development (HUD) are now required to use \$25 per occupied unit per year for resident participation activities. The funds for these activities are being made available to PHAs by HUD as an add-on expense to the PHAs' operating subsidies. Nationwide, under this formula, approximately \$27.7 million will be allocated to PHAs for resident participation.¹ This allocation will have a substantial impact on both large and small PHAs. For example, a PHA with 250 public units will receive \$6,250 and one with 1,250 units will receive \$31,250 for tenant participation.

Authorization for the resident participation funding is found in the recently published interim rule on the *Allocation of Operating Subsidies Under the Operating Fund Formula*.² This rule makes several significant changes to the public housing funding formula to provide funds to support both tenant participation and tenant services. There are, however, no dramatic changes from the proposed rule that was published last year.³ Comments on the interim rule are due May 29, 2001.⁴

While the interim rule earmarks funding for tenant participation, a January 2001 HUD PIH Notice on resident participation activities and existing tenant participation regulations provide guidance on how the funds for tenant participation should be spent.⁵ Moreover, HUD has announced its intention to revise the published tenant participation regulations.⁶ Further, HUD has stated that, pending the revisions, the notice's provisions regarding distribution and the use of the resident participation funds are applicable to Fiscal Year (FY) 2001 funds.

¹This figure is based upon the 1,107,732 occupied public housing units that are reported in the *Multifamily Tenant Characteristics System (MTCS) Resident Characteristics Report*, at www.hud.gov/mtcs/public/guest.cfm (click on *public housing and national*) (information as of Feb.2001) (Web site last visited Apr. 13, 2001) (1,107,732 x \$25 = \$27,693,300).

²66 Fed. Reg. 17,275 (Mar. 29, 2001).

³65 Fed. Reg. 42,487 (July 10, 2000).

⁴Advocates should review the interim regulations to determine if further comments should be submitted. Any comments submitted on the interim regulation will be considered in the development of the cost study currently being conducted by Harvard University. The study considers the cost incurred in operating well-run public housing and the results will be presented to the negotiated rulemaking committee and Congress. 66 Fed. Reg. 17,275, 17,277 (Mar. 29, 2001). For more information regarding the *Public Housing Operating Cost Study*, see www.gsd.harvard.edu/phocs/.

⁵See HUD Notice PIH 2001-3 (HA), *Interim Instructions on Distribution and Use of Operating Subsidy Funds Received for Resident Participation Activities*, (Jan. 18, 2001) (hereinafter HUD Notice PIH 2001-3); see also 24 C.F.R. §§ 964.100-150 (2000).

⁶24 C.F.R. §§ 964.1-964.150 (2000).

Resident Participation

The interim rule clearly states that resident participation activities are to be funded from the \$25 per unit allocation and are distinct from resident services that are not to be funded from this allocation.⁷ Resident services include activities such as day care programs, resident self-sufficiency programs, and resident safety and security programs. As discussed below, a PHA may have additional funds to pay for these services, if there is an increase in rental income.

Allocation of Funds

HUD is currently in the process of distributing some of the resident participation funds to individual PHAs. For PHAs with fiscal years beginning January 1 and April 1, HUD field offices have notified them of the additional funds. HUD sent these PHAs letters obligating, at this time, approximately 50 percent of what is due for the entire year. Assuming that these PHAs respond in a timely manner to the HUD letters, some of the tenant participation funds should be received by the PHAs with January 1 and April 1 fiscal years by May 2001. PHAs with fiscal years beginning July 1 will receive letters soon telling them that they can expect an add-on to their operating subsidy for FY 2001. Presumably, the PHAs with October 1 fiscal years will also receive timely notification of the additional funds.⁸ Adjustments to the initial 50 percent allocation will be made when the precise amount of funds is determined.

At the local level, the system for allocating tenant participation funds varies depending on whether and how the tenants are organized. The unifying theme is that residents and their PHA must collaborate to determine how the funds are to be used.⁹ If there is a recognized city-wide or jurisdiction-wide resident organization, the PHA is required to work

⁷66 Fed. Reg. 17,275, 17,282 (columns one and two) (Mar. 29, 2001).

⁸In general, the allocation of operating subsidies has been unusual this year, due to the change in administrations. NHLP understands that PHAs with fiscal years beginning January 1 and April 1 are currently operating with *Letters of Intent* at funding levels based on last fiscal year's operating subsidy amounts. Adjustments for operating subsidies have not been made based upon the PHA's budget for FY 2001. With respect to the funds for resident participation for PHAs with fiscal years beginning January 1 and April 1, HUD sent another *Letter of Intent* "in order not to unduly delay resident organizations from receiving and benefitting from these funds." *HUD Memorandum from Gloria J. Cousar, Acting General Deputy Assistant Secretary to All Directors of Public Housing and Troubled Agency Recovery Centers, Re: Subsidies for Low-Income Housing Projects-Resident Participation Fund*, (Apr. 9, 2001). The *Letter of Intent* obligates 50 percent of the amount that a PHA is eligible for based upon the occupied units reported on the latest approved form HUD 52723, *Calculation of Operating Subsidy*. *Id.* Attachment II (*Sample Letter of Intent*). The funds will be distributed to the PHA after it submits to HUD a form for payment disbursement. Form HUD-52721, *Direct Disbursement Payment Schedule Data Operating Subsidies Public Housing Program* (June 1991). For those PHAs with January 1 and April 1 fiscal years, advocates should be able to obtain from their local PHA or HUD a copy of the letter and the amount of funds that has been obligated to date.

⁹HUD Notice PIH 2001-3 at 2, 3 and 4.

in partnership with that organization to determine the activities and distribution of the resident participation funds.¹⁰ HUD Notice PIH 2001-3 uses the term city-wide resident organization and the published regulations use the term jurisdiction-wide tenant organization. There is no explanation for the different terms and the terms are used interchangeably throughout this article. In other words, it is the jurisdiction-wide organization that provides the input to the PHA as to how the funds will be distributed to local development resident councils.

HUD has provided examples of the types of activities that are eligible for resident participation funding, including consultation and outreach that supports active interaction between the PHA and residents.

If there is no city-wide organization but there are “duly-elected” resident councils, the local development resident councils will negotiate on behalf of all the residents of the PHA.¹¹ The PHA and resident councils will work together to determine the activities and distribution of the resident funding. If there is no city-wide or development resident council, the PHA must work in partnership with the Resident Advisory Board (RAB) through the PHA Plan process to determine the resident participation activities and funding.¹² Ideally, in this latter situation the PHA Plan should reflect the agreements reached.

At a minimum, any agreement reached between the parties regarding activities, roles and responsibilities must be in writing and reviewed annually.¹³ Presumably, in the case of city-wide organizations and development resident councils, the agreement would be part of or an attachment to the resident group’s Memorandum of Understanding (MOU) with the PHA.¹⁴

Eligible Activities

HUD has provided examples of the types of activities that are eligible for resident participation funding. In general, these activities include “consultation and outreach for public housing residents that support active interaction between PHA and

residents.”¹⁵ More specifically, the resident participation activities include:

- providing information to residents on the issues or elements of the PHA operation that effect them and their living environment;
- resident surveys to obtain tenant input;
- resident council annual membership events;
- development-based community promotions focused upon resident participation;
- resident outreach activities;
- promotion of resident participation activities;
- training of tenant commissioners, resident councils, resident households and RABs;
- resident council elections and organizing activities;
- leadership development for resident participation;
- orientation of new and existing tenants-to-resident participation activities; and
- orientation of new and existing tenants-to-resident participation in PHA planning activities including revitalization work, safety and security programs, property management and maintenance activities, and capital improvement issues.¹⁶

The HUD list is illustrative only and should also encompass:

- operational support (e.g., office supplies) for resident councils;
- child care costs to allow residents to attend meetings and training activities;
- stipends for resident council officers and other resident leaders;¹⁷ and
- assistance with grant writing for resident councils.

Minimal costs for refreshment directly related to resident meetings are also eligible uses of resident participation activities.¹⁸ In addition, per diem for meals related to travel performed in connection with official duties and responsibilities is also an allowable cost.

Ineligible Activities

Refreshment costs associated with entertainment are not an allowable cost.¹⁹ Costs for rental of land, purchase of any

¹⁰*Id.* at 2; A PHA must recognize a duly elected tenant council and, if duly elected resident councils form a jurisdiction-wide tenant council, the PHA must recognize the jurisdiction-wide tenant organization. 24 C.F.R. §§ 964.18(a) and (b)(i) and § 964.105(a) (2000).

¹¹HUD Notice PIH 2001-3 at 2. The election procedures for a tenant council are set forth at 24 C.F.R. §§ 964.115, 964.125 and 964.130 (2000).

¹²HUD Notice PIH 2001-3 at 2.

¹³*Id.* at 2; *see also Id.* at 4.

¹⁴24 C.F.R. § 964.18(a)(10) (2000) (MOU); *see also Id.* at § 964.18(a)(6) (agreements on the use of space).

¹⁵HUD Notice PIH 2001-3 at 3.

¹⁶*Id.*

¹⁷24 C.F.R. §§ 964.150(b) and 5.609(8)(iv) (2000) (stipends up to \$200 are not included in income).

¹⁸HUD Notice PIH 2001-3 at 3.

¹⁹*Id.* and at 4.

vehicle and fees for lobbying are not allowable.²⁰ Also, voucher recipients are not eligible for resident participation funding from operating subsidies.²¹ As previously noted, resident services should not be funded out of the resident participation funds.

Funding Amount

The funding level for resident participation activities is determined by multiplying \$25 by the number of occupied units plus the number of units occupied by police officers and PHA employees.²² PHAs are to use the “occupied units” number that they and HUD use to determine dwelling rental income in the operating subsidy calculations. Employee and police units are to be added to that base for the \$25 calculation.²³ PHAs must include this calculation in their request for operating subsidies.²⁴ However, if the calculation is not included by the PHA, HUD will add it as part of the HUD completeness and accuracy review of a PHA’s request for operating subsidies.

PHAs are required to expend the funds for tenant participation activities regardless of the PHA’s financial status.²⁵ The only exception to this rule is if the amount of operating subsidies that a PHA receives is reduced. In that event, the reduction for tenant participation activities will be made on a pro-rata basis, i.e., an amount proportional to the reduction of the entire subsidy.²⁶

Distribution of Funds

PHAs receive the resident participation funds as part of their operating subsidy allocation.²⁷ HUD Notice PIH 2001-03 states that PHAs may “allocate and redistribute” the funds to those city-wide or development resident councils or to the RAB “with the capacity to administer and account for funds.”²⁸ The published tenant participation regulation is

more direct. It stipulates that a PHA “shall provide funds it receives for [tenant participation] to the duly elected resident council at each development and/or jurisdiction-wide resident councils.”²⁹ That regulation further provides that where there are both jurisdiction-wide and development councils, the distribution will be agreed upon by the PHA and the respective councils.³⁰ PHAs should, therefore, work with the tenant councils to ensure that the necessary financial safeguards are in place. Tenant participation funds should not be withheld from a tenant council or RAB unless the PHA has verifiable information that the tenant group would commit a grossly negligent or criminal act in the handling of the funds.

PHAs are required to expend the funds for tenant participation activities regardless of the PHA’s financial status.

The resident participation regulations also state that the \$25 is to be distributed in the following way: \$15 to the resident councils and \$10 to the PHA for the costs incurred in carrying out tenant participation activities such as the expense of elections, recalls and arbitration. These regulations cross-reference to the former operating subsidy regulation which also provided for the \$15 and \$10 split.³¹ The interim operating subsidy regulation eliminates the split and refers only to the \$25. The interim regulation should now control and tenant organizations and PHAs should no longer be subject to, or constrained by, the \$15 and \$10 split.

Resolution of Funding Disputes

The PIH Notice sets out a system for resolving funding disputes between PHAs and resident councils that is inequitable. It provides that any funding disputes between a resident organization and PHA regarding either the activities or disposition of funds must be resolved within 120 days of the start of the PHA’s fiscal year. In the event that a resolution cannot be achieved, the notice provides that the funds shall be used “by the PHA for resident education activities

²⁰*Id.* at 4.

²¹*Id.* But PHAs may use their administrative fee reserves to fund family participation activities.

²²*Id.* at 17,294, § 990.108(e)(1). On an interim basis, HUD is calculating the subsidy amount for PHAs with fiscal years beginning January 1 or April 1 based upon the number of occupied units reported on the latest approved form HUD 52,753 (Jan. 24, 2001).

²³See HUD Form 52,723 (Jan. 24, 2001), Part D, lines 09-13. (This form has not yet been finalized, but it was used by HUD and distributed to tenants who attended HUD training in Dallas Texas, April 2001.)

²⁴66 Fed. Reg. 17,275, 17,294 (Mar. 29, 2001) (§ 990.108(e)).

²⁵HUD Notice PIH 2001-3 at 3.

²⁶66 Fed. Reg. 17,275, 17,294 (Mar. 29, 2001) (§ 990.108(e)(1)); see also *Id.* at 17,282.

²⁷Resident Management Corporations (RMCs) that receive operating subsidies directly will receive the resident participation funds directly. According to a HUD official, there are five such RMCs nationwide.

²⁸HUD Notice PIH 2001-3 at 4. See also HUD Memorandum from Gloria J. Cousar, Acting General Deputy Assistant Secretary to All Directors of Public Housing and Troubled Agency Recovery Centers, *Re: Subsidies for Low-Income Housing Projects-Resident Participation Fund* (no date) (which references resident organizations receiving tenant participation funds).

²⁹24 C.F.R. § 964.150(a) (1) (2000). See also *Id.* at § 964.150(a) (2) (“the [P]HA must provide tenant services funding to the duly elected resident councils regardless of the [P]HA’s financial status. The resident council funds shall not be impacted or restricted by the [P]HA financial status and all said funds must be used for the purpose set forth in subparts B [pertaining to resident participation] and C [pertaining to funds for technical assistance for resident councils and resident management corporations]”).

³⁰*Id.*

³¹24 C.F.R. § 990.108(e) (2000) as published in 59 Fed. Reg. 43,644, 43,644 (Aug. 24, 1994).

related to HUD policies and procedures.”³² The system described is unreasonable and at variance with the published regulations. This is because it provides no incentives for a PHA to resolve any issues with tenant councils or RABs. When disputes arise, the HUD Notice creates an incentive for a PHA to be deleterious or even obstructionist, because, after 120 days, it will have total control of the funds subject only to the restriction that the funds are used for resident education related to HUD policies and procedures and that such uses must be included in the PHA Plan or amendment to the plan. Such a system of dispute resolution is disadvantageous to tenant councils and should be substituted by a dispute resolution system that involves an independent third party.

The proposed system of dispute resolution is disadvantageous to tenant councils and should be substituted by a dispute resolution system that involves an independent third party.

The dispute resolution system set out in the HUD Notice is also inconsistent with the system provided for in the published regulation. It provides that:

If disputes regarding funding decisions arise between the parties [the PHA and development or jurisdiction-wide tenant councils], the matter shall be referred to the Field Office for intervention. HUD Field Office shall require the parties to undertake further negotiations to resolve the dispute. If no resolution is achieved within 90 days from the date of the Field Office intervention, the Field Office shall refer the matter to HUD Headquarters for final resolution.³³

To the extent that the PIH Notice is inconsistent with the published regulation, it is invalid. HUD and PHAs must comply with the procedure set forth in the published tenant participation regulation if the funding dispute is between a duly elected tenant council or recognized jurisdiction-wide tenant organization and the PHA.

Alternatively, the system for resolving disputes should involve an independent arbitrator. Resolution of disputes by arbitration is currently provided for in the published tenant participation regulation when there is an appeal of a dispute regarding the resident council election process.³⁴

Another way that residents may want to resolve disputes is through the PHA Plan process. As stated above, the HUD Notice provides that if there is a dispute that cannot be resolved within the 120 days of the beginning of the PHA’s fiscal year, the uses of the funds must be included in the PHA Plan or an amendment to the plan. For virtually all PHAs, a plan for the use of the funds when there is a dispute will always take the form of an amendment to the PHA Plan because PHA Plans must be submitted to HUD 75 days before the end of a PHA’s fiscal year. Although HUD invokes the PHA Plan process to resolve disputes involving the use of the funds, the HUD Notice again provides PHAs with an advantageous position in relation to resident councils and RABs, absent an agreement to the contrary. The HUD Notice provides that an amendment to the PHA Plan for resident participation activities and funding “shall not be considered a ‘significant amendment’ to the PHA Plan.” Despite this pronouncement, tenant councils and RABs should seek, as part of the annual and five-year PHA plan processes, to include amendments dealing with resident participation activities and funding in the definition of a significant amendment to the PHA Plan.³⁵ Such a definition is critical because for each significant amendment or modification to the plan, a PHA must consult with the RAB, determine if the action is consistent with the Consolidated Plan, and hold a public hearing.³⁶

Monitoring and Funding Accountability

The HUD Notice states that each PHA shall develop a system for annual fiscal accountability and that tenant councils, city-wide resident organizations and RABs that fail to adequately report to the PHA will be ineligible for future resident participation funding.³⁷ This is another area in which disputes will inevitably arise. PHAs and tenant groups should work together to develop a reasonable system of annual fiscal accountability that is appropriately related to the amount of funds provided to the resident group. The accountability procedures should be agreed upon, in writing, by the parties before the funds are distributed. Such an agreement should obligate the PHA to notify the resident group of any determination that the resident group has failed to follow the agreed-upon reporting system. If the PHA and the tenant group agree that the tenant group failed to adequately report, funding may be suspended until the reporting is corrected or a system is adopted that will assure adequate reporting in the future. Any determination to suspend funding should be subject to a resolution of funding disputes outlined above (resolution by HUD or by arbitration). Moreover, present and future tenant groups should not be penalized for the actions of prior tenant groups.

³²HUD Notice PIH 2001-3 at 4.

³³24 C.F.R. § 964.150(a)(3) (2000).

³⁴24 C.F.R. § 964.130(c) (2000).

³⁵A PHA must include in its PHA Plan the basic criteria it will use to determine a significant amendment or modification to its Five-Year and Annual Plan. 24 C.F.R. § 903.(r)(2)(ii) (2000).

³⁶*Id.* at § 903.21(b).

³⁷HUD Notice PIH 2001-3 at 5.

The published resident participation regulations provide further guidance regarding the requirements of a written agreement for a resident organization funded by the PHA. These regulations provide that there must be a budget, certain assurances and an agreement that the PHA may inspect and audit the resident council's financial records relating to the agreement.³⁸

The Relationship Between Resident Participation Funds Authorized by The Interim Operating Subsidy Rule and Resident Participation Funds Previously Allocated by a PHA

Prior to the interim operating subsidy rule, some PHAs allocated funds for resident participation. HUD previously encouraged, but did not require, PHAs to fund such activities because of the lack of appropriations.³⁹ If a PHA funded resident participation, the expenditure of these funds may have shown up on the PHA's operating budget on lines 220-250 as a part of tenant services.⁴⁰ If these funds were part of the operating subsidy calculation, they were part of the PHA's allowable expense level (AEL).⁴¹ The interim regulations specify that the \$25 is an add-on to the AEL. Advocates should urge PHAs to continue the old level of funding for tenant participation and add to it the \$25 per unit authorized by the interim regulations. In the introductory comments to the interim operating subsidy regulation, HUD declines to change the regulation to require PHAs to spend at the old level and add the new funds. But, HUD does urge "PHAs not to reduce any support now being made for resident participation activities."⁴²

Use of Vacant Rental Units

The interim operating subsidy regulation also provides that HUD may approve a request from a PHA to use one or more vacant rental units for resident participation and still receive operating subsidies for the unit(s).⁴³

Resident-Related Improvements and Services

Another significant change to the operating subsidy formula permits PHAs to retain 50 percent of any increase in dwelling rental income, provided that the PHA uses the retained income for tenant-related improvements and services.⁴⁴ The uses of the retained income must be developed in consultation with residents and included in the PHA Plan. The interim regulations are explicit in that there must also be ongoing resident consultation on the uses of the tenant service funds. The interim regulations provide a list of eligible uses for the retained income. The list includes:

- resident self-sufficiency services;
- resident employment and training services;
- optional earned-income exclusions;
- physical and management improvements that benefit residents;
- maintenance operations; and
- resident safety and security improvement and services.⁴⁵

As with the \$25 per unit per year, the funds that the PHA retains are easily identifiable from the HUD form used to calculate operating subsidies.⁴⁶

The Relationship Between Funding for Tenant Participation and Tenant Services and the PHA Plan Process

The use and distribution of resident participation funds and the use of the increases in rental income are linked to the PHA Plan process. With respect to resident participation funds, the HUD Notice provides that "resident participation activities are intended to supplement PHA Plan activities and training."⁴⁷ Further, it states that resident participation funds may be used for "planning functions for such items as the Public Housing Agency Plan, revitalization, safety and security, property management and maintenance, and capital improvements."⁴⁸ The uses of the retained increases in rental income must be determined with resident input and incorporated into the PHA Plan.⁴⁹

On issues relating to the distribution of the resident participation funds, a PHA must negotiate with the RAB if there is no city-wide or development resident council. It is the responsibility of the RAB to "provide resident input in the annual decision making process for resident participation activities and funding."⁵⁰ And if there are disputes regarding the distribution or use of the resident participation funds that cannot be resolved, "the uses of resident participation funding must be included in the PHA Plan or an amendment to the PHA Plan."⁵¹

Residents should use the plan process to identify and resolve issues regarding the use and distribution of resident participation and tenant services funds. During the PHA Plan process, tenants should request to see the HUD 52723 form in order to determine the amount that the PHA is claiming for tenant participation and tenant services.⁵²

³⁸24 C.F.R. § 964.150(b)(3) (2000).

³⁹*Id.* at § 964.150 (2000).

⁴⁰Form HUD-52564, Operating Budget (Mar. 1995).

⁴¹66 Fed. Reg. 17,275, 17,287, 17,289 (Mar. 29, 2001) (§§ 990.102 and 990.105).

⁴²*Id.* 66 Fed. Reg. at 17,282.

⁴³*Id.* 66 Fed. Reg. at 17,294, § 990.108(e)(2).

⁴⁴*Id.* at §§ 990.109(b)(1)(iii) and 990.116(a).

⁴⁵*Id.* at § 990.116(b).

⁴⁶See HUD Form 52,723 (Jan. 24, 2001) Part B, line 07.

⁴⁷HUD Notice PIH 2001-3 at 3.

⁴⁸*Id.*

⁴⁹66 Fed. Reg. 17,275, 17,294 (Mar. 29, 2001) (§ 990.116(b)).

⁵⁰HUD Notice PIH 2001-3 at 2.

⁵¹*Id.* at 4.

⁵²Most PHAs submit this form to HUD approximately three months prior to the beginning of their fiscal year. This year, the form, as amended to provide for the resident participation calculation and the retention of increased rents for tenant services, has not been used for PHAs with fiscal years beginning January 1 or April 1, 2001.

HUD Budget Cuts Public Housing, Modestly Increases Vouchers and Leaves Most Other Programs at Current Funding Levels¹

With respect to the funds for tenant services, advocates should negotiate with the PHA to determine how the funds will be used, the circumstances under which tenants will be consulted on an ongoing basis and how they will be involved in any decisions precipitated by changes in funding. Advocates should be as specific as possible regarding the uses and should consider requesting that the allocation of funds be separately tracked at the local level. It is important to obtain that level of accountability at the local level because HUD has stated that the operating subsidy rule does not “require the PHA to separately account for, monitor, track or report on the retained income beyond the requirement to identify the proposed uses of the estimated amount of retained income in the Annual Plan.”⁵³ Thus if the accountability is not obtained at the local level, it will not happen.

Advocates should negotiate with the PHA to determine how the funds will be used, the circumstances under which tenants will be consulted and how they will be involved in any decisions precipitated by changes in funding

With respect to the resident participation money, there are many options for its use. For example, the residents could include, as an objective, the creation of a city-wide resident organization. If that is the objective, the Plan should also include a timetable and plan of action for achieving that objective. Another objective that could be included is PHA recognition of a specified number of development resident councils. Again a timetable and plan of action (elections, development of an MOU, bylaws, etc.) for achieving that objective should be part of the PHA Plan. Also, if a PHA has determined that a resident group does not have the “capacity to administer and account for funds,” the Plan should include a goal of increasing the capacity of the resident group to administer and account for the funds. The plan of action to achieve this goal could include training in fiscal management for the residents or efforts to find a fiscal agent who would mentor the group.

Conclusion

The new operating subsidy formula regulation presents an opportunity to expand tenant participation and to build capacity for public housing resident organizations. It also promotes opportunities for tenants to become more meaningfully involved in the PHA Plan process and to influence the decisions that affect their homes, rents, the support they receive when moving to work, and their living environment. There will be challenges, but they should not be allowed to impede the immense opportunity that now exists. ■

⁵³66 Fed. Reg. 17,275, 17,281 (Mar. 29, 2001).

The Bush Administration released its official budget on Monday, April 9, 2001, just days after both houses of Congress passed budget resolutions setting spending limits for Fiscal Year (FY) 2002.² The budget contained few surprises, following closely the *Budget Blueprint* released by the Administration in late February.³ Cuts are proposed for many programs, with no clear rationale. It appears that the Administration told agencies to stay within certain spending limits in order for the President’s budget to accommodate its massive \$1.6 trillion tax cut. The result is a HUD budget of \$30.4 billion for FY 2002, which, while 7 percent over FY 2001 appropriations, fails to take inflation into account.

The biggest proposed cuts, as expected, are in public housing programs. More than \$700 million is being cut from the Public Housing Capital Fund, reducing funding for this program from \$3 billion in FY 2001 to \$2.29 billion for FY 2002. The Administration asserts that this decrease will not result in a decrease in funds for public housing modernization because PHAs have over \$6 billion in unspent capital funds.⁴ PHAs and advocates counter that these “unspent” funds are already obligated and will be used for previous commitments. PHAs have four years within which to spend funds and plan accordingly. Any surplus is thus largely illusory and the large cuts could lead to devastating effects for PHAs in need of capital repairs.

In addition to the Capital Fund cuts, the Administration is seeking to terminate the Public Housing Drug Elimination Program, a program that provides funds for safety, security and drug prevention activities such as after-school and mentoring programs. The Administration argues that the program had “little impact” and is duplicative of the Public Housing Operating and Capital programs.⁵ The Drug Elimination program was funded at \$310 million in both FY 2000 and FY 2001. While the administration has requested an increase of \$150 million in the Public Housing Operating

¹This article and the accompanying chart are taken largely from an analysis of the HUD Budget published by the National Low Income Housing Coalition in its *Memo to Members*, which can be found at www.nlihc.org.

²The budget is available at www.whitehouse.gov/omb/budget/index.html. The Democrats’ response is available at www.democraticleader.house.gov/bushbudget/index.html and the Republican analysis can be found at www.senate.gov/~budget/republican/analysis/2001/fy2002summary.PDF.

³See *HUD FY 2002 May Be Worse Than It Looks*, 31 HOUS. L. BULL. 59 (Mar. 2001).

⁴*The Budget for Fiscal Year 2002*, at 485.

⁵*Id.* at 487.