

Public Housing Repositioning Wednesday - Proceeds, 10/14/20

Caila Prendergast: All right everybody, to get started.

Jane Hornstein: Yeah.

Caila Prendergast: Okay. All right. Good afternoon everyone and thanks for joining today's installment of the Wednesday Webinar series.

My name is Caila Prendergast and I'm one of your hosts today along with our wonderful experts at HUD, Dan Esterling, Kathy Szybist and Jane Hornstein.

Before I pass it over to Dan to introduce the session, I'll just go over a few quick housekeeping items. For those of you who have joined these sessions before, similar idea, same process, but just want to quickly go over these for those who are joining us for the first time today.

Our speakers will share their knowledge for the first part of the presentation and all time remaining we'll reserve for questions. There are two ways that we facilitate questions. The first is in the chat box.

You can drop your question there and I'll read it out loud once we get to the Q&A portion. The second way is to sort of the hand. The hand shaped icon in the right-hand navigation panel. You click on that, it'll sort of notify me that you want to ask your question and I can unmute your line and you can ask your question that way.

As I'm sure you've noticed, all webinar participants are muted upon entry. If you're having any technical difficulties, just shoot me an email or a chat and we can get that sorted out.

As usual, this session is being recorded and will be available on HUD Exchange usually about a week after the webinar. Immediately following the webinar, there will be sort of a popup on your screen and it'll take you to a SurveyMonkey survey.

We ask that you just take a minute or so to complete that survey and give us any feedback that you have and if you have any ideas for other sessions that would be helpful to you, feel free to drop them in there.

I think that's all for me and so I will pass it over to Dan.

Dan Esterling: Thanks, Caila. Welcome everybody. Today's presentation is, as Caila mentioned, on proceeds and our presenters today, I'm Dan Esterling with the director of the SAC Jane Hornstein and program analyst in the SAC, Kathy Szybist, who if you've been to any of our other presentations are great presenters and very knowledgeable, so excited to have them as panelists today.

Next, please. Okay, so why we're here today. This really is going to be Jane and Kathy speaking about their recently released notice or HUD's recently released notice PIH 2020-23, which is going to cover what does HUD mean by proceeds?

How PIHs are able to use those proceeds as they continue on in their business, the eligible uses, what consultations and approvals they need in order to utilize those proceeds and what monitoring enforcement HUD is going to perform following the use of those proceeds.

Next, please. Just to orient everyone, as usual we had a series -- this is our ongoing series of Wednesday Webinars. All the previous sessions have been recorded and they're posted on the HUD Exchange.

If you're interested in any of these other topics, you can find them there. In addition, I just wanted to plug our common PIH board questions seminar, which is going to be coming up in just two weeks.

So we have been doing these roughly monthly, but the next one is only in two weeks from now, so if you're interested in that, I think that's going to be a really good discussion as well.

Next. So if you are brand new to this or there are other folks in your organization that are in need of more detailed repositioning training or really are just diving into it, we have a four part webinar series that was recorded also on the HUD exchange, which is a very in-depth discussion of all the repositioning tools and options and strategies.

If you have any questions about repositioning where you want to do your own reading, if you're more of a DIY'er, our repositioning website, I'll say it's undergoing some upgrades right now, but we have a lot of good materials on it.

The link is there, but we have some training videos, a lot of the notices and regulations that talk about repositioning options, case studies and generally it's our clearinghouse for anything you want to talk about repositioning.

It's not on there, but we also have a repositioning at HUD.gov email address if you can't find anything you need or you have a particular repositioning question and you're not sure who to send it to. So that email address is at the end of the presentation as well.

Next? Okay, over to Jane.

Jane Hornstein: Okay, so PIH notice 2020-23 was published on September 26, so it's hot off the press. We just put it out like two or three weeks ago. It helps to clarify eligible uses and proceeds under Section 18 and Section 22 only.

We did not address proceeds under Section 32, 5(h) programs or Turnkey-III programs. We're still working on some of that, but for now, this will help at least with Section 18 and 22 and it clarifies exactly what the use of proceeds can be, how they're to be treated before they're used.

I mean, once you've received the money, but you haven't used it yet, what do you do with it? Any reporting requirements and please note that this is not retroactive.

So if you have proceeds already that have a SAC letter, those proceeds are still subject to your SAC letter, not necessarily to this notice, however, you're always welcome to use this as guidance.

Okay, next please. Okay, so what are proceeds? Proceeds are the result of any transaction, a disposition transaction, whether it's a sale or a ground lease under Section 22 or Section 18. It can be realized even in a below fair market value transaction based on commensurate public benefits.

So this would be like if you use a seller's note and there's actual payments on those, those are considered proceeds. Usually it's cash payments that come in at the acquisition and it can be either -- it can be a ground lease or it can be seller notes, however they come in, that's considered proceeds and it has to be a direct result of the disposition transaction.

It would not be excess cash. So if you switch over to project-based voucher rents and they're higher and you now have excess cash, those are not considered proceeds. That's considered income, program income to the housing authority.

Developer fees and profit sharing are also not considered proceeds, so okay. How can you use them? How can you use this money? Again, we're giving local flexibility. There's no mandate from HUD as to how it's to be used, we just put guidelines around how it can be used.

Gross proceeds can be used for the reasonable cost of disposition and relocation. Net proceeds have to be for the provision of low-income housing and note that that's different from affordable housing.

Low-income housing, based on the 1937 act, is housing that's at or below 80 percent of area median income. Affordable housing, which is typically more often low-income housing tax credits are not usually the same.

Low-income housing usually also means subsidies from HUD. Whether it's vouchers or public housing or something like that. It also must benefit the residents of the public housing agency and leverage amounts of [inaudible] and you can also leveraging amounts for securing commercial enterprises.

Okay. So gross proceeds, again, relocation costs are moving, consulting, hiring a relocation specialist, security deposits, utility deposits, those can all be covered out of proceeds as well as the reasonable cost of dispositions.

So environmental reviews, rehab estimates, appraisals, reasonable consulting fees, marketing analysis, any transaction costs, brokerage fees, attorney fees, title fees, closing fees, all of that can be covered out of proceeds.

We do require that that -- if you're going to use it for those purposes, please notify the SAC as part of your application so that we can note that in the SAC letter. We will put in there that it would be -- it would have to be described and we would have to say yes that these are all approved uses in the SAC letter.

The gross proceeds are not addressed explicitly in 24 CFR 972, which is part of Section 22, but again, it's just good practice. So it's not required for Section 22. Okay.

These are the eligible uses for net proceeds would be modernization and development of public housing, PBV projects, the cost to the project owner, operations of public housing, any RAD conversions that you're doing you can use proceeds for that can be used for commercial uses.

It can also be used for increasing the supply availability and utilization of low-income housing. So things like recruiting landlords under your voucher program. You can use proceeds for that and other uses as approved by HUD.

So if you have other uses, just please let us know and I'm going to turn it to Kathy now to give you a lot more detail as to what each of those means. I know we're going quickly. Okay, Kathy?

Kathy Szybist: Great, thank you, Jane. So I'm going to pick up with net proceeds. Operation, modernization and development of public housing. So the really nice thing about what the notice does here is it really tries to streamline this use and what we're looking for here is really kind of a check the box.

So we're looking for you to tell the SAC, yes, I plan to use proceeds to develop, modernize or operate public housing and we don't really need to know exactly what eligible use -- the specific use.

Like we don't need to know what roof is going to be replaced in terms of modernizing a public housing project or what kind of operational expense the proceeds will be used for, as long as it's an eligible use of cap funds or out funds, it's an eligible use of proceeds.

On the SAC application, you'll kind of check the box on the 52860-A and include a brief description, but really we're not looking for much. Then if it is a modernization or development use, a 905 use, you will also include the use of proceeds in the five-year CFP plan through Epic.

We're working with the Office of Capital Improvements on that, but our understanding is there'll be a little box or a line item on Epic where you can actually insert the proceeds amount that you will be putting in to using for capital fund purposes that year.

The final thing I want to point out here is this is not -- this is exclusively for public housing modernization, operation or development. There's not -- this isn't equivalent on the HCV operation side.

So it is possible to use proceeds for certain Section 8 operational costs, but they're more caveated and limited, so we'll get to that later. But for this first use, it's really operation development of public or modernization of public housing units.

Okay, next. So the next use is -- there's a whole lot of flexibility here. This is using proceeds for the development, cost of the PBV owner. So this is not cost of the public housing agency as administrator of project-based voucher units, it's cost to a PBV project owner to develop and operate PBV units or sorry, to develop PBV units.

Here, the Public Housing Authority doesn't need to own the PBV project. It can contribute the proceeds to a third party PBV project owner, including through the use of a permanent loan in order to allow PBV units to be developed.

So as part of the SAC application, the notice explains certain things that housing authorities should provide. The SAC, in terms of the planned PBV project that it wants to contribute proceeds towards, note here that the housing authority is not required to be in any particular place in the PBV process.

The purpose of the narrative description is just to provide SAC with a plan on how the PHA will end up successfully completing the PBV process. So SAC acknowledges that the housing authority might not be able to do the selection and all the subsequent PBV steps until after expending the proceeds on the acquisition, for example.

We're not necessarily saying everything on this laundry list here in terms of what we're asking for as part of the PBV project description to be completed. If it's not completed, you just tell us, but we want some kind of concrete plan to how the expenditure of proceeds will eventually, and ideally soon, result in PBV units becoming online.

Note here the last bullet, a use restriction may be required, so would have retained some flexibility here.

I think we're going to look holistically at these and depending on other sources of financing and other use restrictions on the property, HUD may or may not require and the amount of proceeds and just a whole host of factors, we may or may not require that a use restriction be recorded against the property in addition to the usual 20 year HAP contract that will be executed.

Okay, I think that about covers everything. I guess the final thing I'll note here is under this use, a housing authority could use proceeds either directly for the PBV project cost to bring the units under a PBV HAP such as acquisition costs or costs to do minor repairs before HAP.

Or the housing authority, as I said before, could use the proceeds as a loan to a third party to do a similar acquisition or minor repair or rehab cost in order to get the units ready to come under HAP.

Okay. Next is net proceeds, increasing the supply, availability and utilization of low-income housing. Here is where it could be possible to use proceeds for some HCV operational or administrative expenses.

The important thing to note here is it's not like public housing operations where really any eligible cost of or any eligible use of public housing op funds is an eligible use of proceeds. It's very broad there and we're kind of mimicking the same standards as 990.

Here, it's not any eligible use of Section 8 admin fee is an eligible use of proceeds. Here, the housing authority has to demonstrate or make a nexus that the expenditure of proceeds for certain administrative and operational costs of the HCV program will increase the supply, availability and utilization of low-income housing.

I know that sounds really technical and legal and it's because it is, but that's the language that we worked out with OGC that we have to operate under in order to allow proceeds to be used for these kind of HCV operational expenses.

The really neat thing here is these uses could potentially be more expansive than Section 8 HCV administrative uses.

For instance, HCV admin fee can't be used to pay security and utility deposits, but proceeds could be used to pay security and utility deposits for in a -- to help families come under HCV leases and increasing the utilization of the vouchers by assisting them with these security and utility deposits in the normal HCV program.

There's a lot of creative uses that housing authorities could use proceeds for to further their Section 8 HCV utilization and operational goals.

Okay, next. So before we review, we were actually missing one slide here and we'll be sure to update it before we post this final and circulate it, but the other-

Caila Prendergast: So Kathy, I was actually able to add it in really quick, so here we go.

Kathy Szybist: Thank you, Caila. So the final use before we get to review is proceeds can be used for RAD purposes. So they can be used as a source of capital to support the RAD conversions.

So really anything on the RAD budget you can use proceeds for. So you'll include the proceeds of the line item in the RAD financing plan or the RAD documents. You'll also kind of check the box on the SAC application that the plan is to use a certain amount of proceeds for RAD.

So you'll tell the SAC. You'll tell recap and then you can use proceeds to further -- for financing in a RAD transaction. So that's pretty straightforward.

Okay, let's do a quick review. So development, we're just going to go through kind of a list here of uses and discuss whether it's an eligible or ineligible use of proceeds. So development of PBV or public housing units is, yes, it is an eligible use.

Development of tax credit units or other units that are not PBV or public housing use and the answer there is no. Again, this is a distinction Jane made at the beginning of the call that proceeds can't be used for just any affordable housing uses.

They can't even be used for uses that are to benefit or housing for low-income families, 80 percent and below as defined by the 1937 act. The statutory language is even more limited to low-income families.

It's the provision of low-income housing, which is generally the development of only PBV or public housing units. This is a really important point and note that this use is more limited too than the affordable housing purposes definition in the RAD notice.

That allows proceeds, certain RAD proceeds, to be used for affordable housing purposes. That is more expansive and proceeds there can really be used for housing for any housing purposes that serve families at 80 percent and below.

Again, Section 18 proceeds, more limited if you're putting them into hard units. They need to be PBV or public housing units.

Next use, the modernization of public housing units. Yes, and again, it's pretty streamlined. Just check the box on the SAC application, include it in your five-year CFP plan and proceed with using proceeds for that purposes.

Social services for public housing residents. This would be a clear yes, because again, it's an eligible use of operating funds under 990, so it's an eligible use of proceeds.

The next one is social services for Section 8 residents. This one is a little more caveated and it depends on kind of a case by case use of what the particular social services are.

If we're talking about, for instance, a Section 8 agency, an agency that only has a Section 8 program and it has kind of some remaining proceeds because it, for instance, closed out the remainder of its public housing units under Section 18 50 and under or streamlined voluntary conversion and let's say it's now a Section 8 only agency sitting on a pot of proceeds and it wants to use them for social services for Section 8 residents.

So here, it really depends on if those social services are going to increase the supply, availability or utilization of vouchers when we talked about that use a few slides ago.

If somehow the housing authority can make that nexus and argument that the services to the residents will somehow increase the voucher utilization, then yes. If not, then no.

Next is the funding security deposits for Section 8 residents. Again, this would be a yes if that would increase voucher utilization, supply or availability. Cost of a RAD project, transactional and rehab, yes, as long as it's part of the RAD financing plan.

Next one is admin cost of public housing. Answer there is yes. Again, it's an eligible use of Section 9 operating funds, so an eligible use of proceeds. The only caveat there is you can't exceed the salary caps and I think I failed to mention that on the previous slide, but that's just an important caveat to remember.

Then the final is admin costs, again, salary of Section 8 PBV. This is again and it depends. Yes, if the services will increase the voucher utilization supply or availability such as hiring a new staff person to do mobility counseling or something like that.

Okay. Let's go on. So after you determine or think you determine a really great use of the proceeds, you have or will realize as a result of a Section 18 or 22 transaction it's important to consult with the board, residents, the public and the local government officials on that proposed use to the maximum extent feasible.

Generally all these consultations on proceeds are going to occur just in conjunction with the consultations on the SAC application.

So when you brief the board and get board approval to submit the SAC application to HUD, if you're going to receive significant proceeds and have a proposed use, that should obviously be disclosed and discussed as part of the Board of Commissioners meeting and approval.

The same with residents, public and local government officials. With the public, the consultation will occur as part of the PHA plan that includes the SAC application.

So as part of any discussion, again, if there's going to be proceeds, that should all be kind of disclosed and discussed as a best practice even though it might not be explicitly noted in any of the consultation requirements.

Okay, next. So a housing authority, certain SAC programs and RAD programs require housing authorities to close out their public housing programs and even if close out's not required, some housing authorities that get down to zero units will choose to close out their public housing programs and terminate their ACCs with HUD.

So having unexpended proceeds doesn't stop that and doesn't -- a housing authority can still close out with unexpended proceeds, but they -- as part of the close out process, the field office will confirm that there is either an approval in place that the housing authority can continue to spend the proceeds, for instance for Section 8 related purposes or if there are unexpended proceeds and there's no approved plan for an eligible use, then that might need to occur through certain approvals or plans before HUD will terminate the ACC with the housing authority.

So just something to be mindful of if the housing authority will be closing out, to make sure whatever use you're thinking is going to be eligible as a Section 8 HCV only agency or you have another plan for the proceeds.

The final thing I'll note here is if a Housing Authority, for instance, is a public housing only agency and is just planning on closing out, closing out, terminating its ACC and it is contemplating a Section 18 or 22 streamlined voluntary conversion transaction or proceeds will be realized, one thing it can do in lieu of just returning the proceeds to HUD as part of the close out would be to voluntarily transfer or consolidate with another Housing Authority after it removes all of its public housing units.

It can do this through PIH notice 2014-24 and in this instance it could just transfer this pot of proceeds that it has maybe just even acquired through the Section 18 or streamlined voluntary conversion transaction and can just transfer that pot of proceeds to another Housing Authority with the Section 9 program to use for any eligible purposes.

That's kind of a nice way to ensure that the proceeds will continue to be used for low-income housing if a particular Housing Authority just kind of wants out of the program all together.

We're also seeing some really creative uses of this. We have one instance where some Housing Authorities, a non-moving to work agency, is partnering with a moving to work agency to transfer its proceeds to that moving to work agency and then once the moving to work agency gets the proceeds, it can use them for really any eligible moving to work purpose and exercise all of its moving to work flexibilities and using those newly acquired proceeds as part of the consolidation process.

So some creative uses and ideas to make sure proceeds aren't recaptured. Okay, next?

So in terms of the logistics about how Housing Authority requests and receives HUD approval for a particular -- for one of these uses that we just discussed, in a Section 18 application, 970.7, I think A10 is pretty clear that the housing authority must describe the use of proceeds as part of the Section 18 application and the housing authority does this through the IMS/PIC application as well as the HUD 52860-A.

I think that's the next slide, which we'll take a peek at in a second, but pretty much it's a check the box, which I referred to before, and a short narrative description of the proposed use in a Section 18 application.

In Section 22 with a HUD 52860-A is not required because that's only the addendum used for demo or dispo. So here, the housing authority will just confirm the proceeds will be used in accordance with Section 18(a)(5) as part of its streamlined voluntary conversion plan.

Again, the more specificity we have about a streamlined voluntary conversion plan, including its proposed use of proceeds, the better and the more -- the easier it will be for staff to process and approve that SVC plan, the more we have a complete holistic picture of how it will benefit the

residents and in the best interest of the housing authority and all of that including specific use of proceeds to the extent possible.

Then HUD will approve the proceeds as part of the Section 18 or streamlined voluntary conversion approval documents.

Okay, next. So here's that snapshot of the HUD 52860-A that I was referring to, kind of the check the box thing. Now, granted, we developed this form I think in 2018 was the last time we revised it, so it doesn't follow the categories of PIH notice 2020-23 identically.

So since 2020-23 is the later guidance, that is really the parameters you'll be operating under, especially with the descriptive narratives. But I think this form is generally still usable and follows the notice categories pretty directly.

But again, since it does require the brief narrative budget or supporting documentation, of course supplement that little brief narrative with more nexus to the categories of the newest.

The other thing I'll say here is again, back to the capital fund and operating fund uses particularly for public housing, we don't need much of a narrative there. Just a very short narrative is sufficient given that it needs to be part of the five-year CFP plan and all that.

Okay, next.

Jane Hornstein: Okay, so I think at this point we've got some questions.

Kathy Szybist: Okay.

Caila Prendergast: Yep.

[Crosstalk]

Jane Hornstein: So I think we'll take some questions and then we'll go back and finish up.

Kathy Szybist: Okay.

Jane Hornstein: Okay?

Caila Prendergast: Okay. So first question I think is for you, Jane. "Can you explain the difference between gross proceeds and net proceeds?"

Jane Hornstein: So gross proceeds can be, again, is the total amount that you would receive at the closing. So let's say you sell the building for \$500,000. So the gross proceeds is the \$500,000, although out of that, you can use some for relocation and closing costs, etcetera, and that comes out of the gross and then what's left over after those expenses are taken out is the net.

So I'm not sure that helps, but we're just saying that closing costs and relocation and that comes out of your gross and then we need to account for what comes out of the net after that.

Caila Prendergast: Okay, thanks. Next one, can it be an entity of the PHA? For example, an LLC where the PHA is the sole member?

Jane Hornstein: To receive the proceeds?

Kathy Szybist: Are you talking about PBV project owner or what specific use?

Caila Prendergast: So let me see. This is the question -- I'm going to see if I can unmute this line and get some more clarification. Once again I'm just scrolling. Hi, Jessica.

Jessica: Hello.

Caila Prendergast: "Can you provide a little bit more clarity?"

Jessica: Yeah. So one of our intended -- one of our ideas as far as the utilization of proceeds is that we would be operating under an LLC, but we won't be under specifically the PHA and that we would have PBVs on the units.

The question I had is that, "Can it be an entity of the PHA, for example, an LLC, where the PHA is the sole member, but still operating under a HAP contract with PBVs on the project. So can we use the money into that project without any issue?"

Jane Hornstein: So as far as development costs, absolutely.

Jessica: Okay.

Jane Hornstein: To supplement operations is a little more complicated.

Jessica: I think the idea is for the development costs and the hard part is, when you're in development, the PHA is potentially fronting the money on it, but if the intent is to use it to repay back those development costs that potentially were used beforehand -- the timing is all very challenging when we're talking development and the awarding of the PBVs and all of that, so I wondered what that would look like.

Jane Hornstein: So it can definitely go in as development cost. I think the timing is kind of -- because Kathy, can we use it to do -- to repay? So let's say the housing authority has put other monies in and they want to take out a loan or something with proceeds?

I think that's still okay, isn't it?

Kathy Szybist: Yeah. I think it could be. Again, I think we're looking to kind of just see the plan. How the contribution of proceeds through whatever structure is going to end up in the development of the PBV units.

There's no real regulatory provisions directing this, so I think we'd want to see your plan. So if your plan was, say, okay, the housing authority will get the proceeds, then it'll loan them to the LLC or then the LLC will do something. I think we just need kind of to see the plan and then -- but I think it's possible.

So just so I understand, after the housing authority would get the money, how would it contribute them to the LLC?

Jessica: Oh, are you asking me? It really depends on the timing. The idea could be that potentially we use like our architect's cost or potentially some modifications to the property specifically for services or whatever it would be.

The Housing Authority would potentially be fronting the money for it. It would go in as a line item, like a construction progress or there would be a way to code it and follow the dollars so we could track those completely separate. Maybe potentially as a sponsor loan or whichever way a HUD [inaudible] would be the best way to document it.

Then when the project actually opens or closes, when the construction close actually takes place, then potentially if we've got that -- if we've closed out all of our public housing by that point, potentially those proceeds then could roll back to the LLC, which would then pay back the housing authority. That's how I would see the flow of funds happening.

Kathy Szybist: Yeah. So I think that's all possible and Jane, I don't know if you've got some -- my two initial thoughts are of course these can't be used for short term loans, so we would just have to make sure that it's not like that someone would get the money back after three years and it was just kind of like this holding thing and then they'd get the money back free and clear after three years.

Well, that's not a use of proceeds, then in that instance the proceeds weren't really, quote - unquote, "used to develop the PBV units." It was just kind of money moving around and a way to get the money unrestricted. So that wouldn't be okay.

And then the other caveat I would say is proceeds can be used for certain pre-development expenses related to PBV development. Architect and engineering and scoping out the scene, but that kind of stuff. But that would require kind of separate HUD approval as to your -- or SAC approval if you want to use them for pre-development expenses.

Jessica: Okay. And then like the environmental reviews, those type of things that would be specific to operating a project with PBVs, those would be also approved costs, right?

Jane Hornstein: Right. Yeah.

Jessica: Okay, great. Thank you.

Jane Hornstein: Yeah, so just -- so the other thing to just be aware of, if it does come in as a sponsor loan, it will have tax implications and you should [inaudible]. I mean, it's not just HUD making that decision. Those are IRS considerations as well. Okay?

Caila Prendergast: Okay. Thanks, Jane and Kathy. We have a few more. Okay, can you talk a little bit about commercial uses?

Kathy Szybist: So I'll start and Jane can chime in here. So I've been at the SAC I don't know exactly how long, but I think over 15 years, and I can't recall any time the SAC has ever approved proceeds for commercial uses. So it's a very -- it hasn't been used much, if at all, and I think right now we're just going to be looking at these on a case by case basis and seeing what housing authorities can propose based on that statutory and regulatory language.

We have discussed a bit with OGC and tried to just flush this out a little bit. I think where we're at is when it says leveraging amounts for securing onsite commercial enterprises, leveraging will almost always mean a loan where THA takes the proceeds and it loans them.

Puts it in the form of a loan to bring on commercial enterprises. The language -- commercial enterprises that -- appropriate or whatever to serve the residents. Things could include local grocery stores, beauty salons, anything that's appropriate to serve the residents.

One thing that's still kind of being discussed is what on site means. Whether the commercial enterprise would have to be on a land under a DOT or DORC or whether it could possibly be adjoining land to a public housing site in order to make it a little easier to have commercial enterprises be located on property to serve residents.

On property not under a DOT, but maybe next to a DOT. We're still exploring that onsite issue with residents, but we don't have a lot of guidance. We opted not to go into a lot of detail through this notice. I think we're open to just evaluating housing authority's proposals for this use on a case by case basis. Jane, I don't know if you have anything to add to that.

Jane Hornstein: No. I mean, just make sure that if it is -- I mean, if you're considering it, it has to be some kind of commercial use that will support the residents in some way and we'll need to see that tie. Okay?

Caila Prendergast: Okay. We have another person who wants to ask their question verbally, so I will go ahead and unmute your line, Cami.

Cami: Hi. Hi, Jane and Kathy. So my question is, if you -- okay, if you want to sell some vacant lots that are not necessary and we're not going to rebuild on them. They were demolished some years back and our intention is to sell them via auction through a public auction.

My question is, "Can we deduct the auctioneering costs and advertising cost of the auction from the gross proceeds and then determine that the net proceeds will have to be determined use on the 52860-A form?" Because we're in the process now of really reevaluating our -- we're working on our repositioning and evaluating our development strategy going forward, so we're

not really -- we don't have concrete plans at this point. There are several options, but they're not specific yet.

Jane Hornstein: So you can. I think our preference is going -- and we'll push you a little hard to try to at least put down what your preferences are going to be.

Cami: Mm-hmm.

Jane Hornstein: It just -- the more we can put up front, the simpler it's going to be for everyone.

Cami: Right.

Jane Hornstein: But we do know that plans change over time and you can't -- you may say that this is what you want to do today and another opportunity comes up tomorrow and you change your mind.

So that happens, we understand that, but I think the more information you can put up front in the application, the cleaner it's just going to be.

Kathy Szybist: Yeah.

Cami: So in the application, in the narrative, we can indicate that these are the thing that we have in mind or that we're potentially planning?

Jane Hornstein: Yes.

Cami: But we haven't -- they're not cast in stone yet, but we'll --

Jane Hornstein: I think that would be helpful, yeah.

Kathy Szybist: Yeah, yeah.

Jane Hornstein: I can then say these are approved uses or this is not an -- I mean, we can tell you up front whether it is or not, yeah.

Kathy Szybist: Right or you --

Jane Hornstein: [Inaudible] go ahead.

Kathy Szybist: You could propose to use proceeds for the -- or your plan is to use proceeds in compliance with a use described in PIH Notice 2020-23, specifically you're thinking you will likely use proceeds for this, this or this. You can be broad if you don't have concrete uses, just try to just at least say you're going to use them in compliance with the notice and you're thinking these one or two or three would be eligible uses or something.

Cami: Okay, gotcha.

Kathy Szybist: And then in terms of your first question, gross proceeds can be used for reasonable cost of disposition and the notice on page three describes -- kind of gives a laundry list of that, A through C or D on there.

So things like the cost to prepare the application, like environmental studies, and then this one, it sounds like the auction costs you're referring to would be transactional seller closing costs. Like the split of the brokerage fees, appraisal fees, survey cost, tax certificate fees.

I think you could also include in that the cost to the auctioneer for selling the properties.

Cami: Okay and we could also include the environmental review cost, correct?

Kathy Szybist: Correct.

Cami: Yeah. Okay. Okay. Thank you.

Jane Hornstein: Mm-hmm.

Caila Prendergast: All right, thanks. Jane, we do have a few more. I don't know if you want to keep doing questions or if you want to finish the presentation and then address the rest of the questions. Whichever you prefer.

Jane Hornstein: Whichever. Why don't we go ahead -- I think we have people dropping off, so why don't we finish up and then we can take more questions, because I know people have to run.

Caila Prendergast: Okay, sounds good.

Jane Hornstein: Okay, so follow the money. This is just to give everybody a broad overview of how the money should flow and something to keep in mind. The disposition occurs, the PHA receives cash.

At that point in time, the PHA must deposit it in an account subject to a HUD GDA account, a HUD-51999. They record they receive the proceeds in the financial data schedule and then the PHA records expenditures of any proceeds in the FDS, again.

HUD may require additional reporting based on the amount of proceeds, proposed use or status of the PHAs. If it's a troubled PHA, we may watch it a little more closely. If we do, it will either be in the SAC as part of the approval letter or the field office as part of their monitoring.

We'll make those notes and make sure you're aware of those. In terms of monitoring and enforcement of this, again, the field offices are going to do a lot of the monitoring. We have put this into the inspector general and government accountability office, so it will be part of your audits and accountants will be looking for this.

We've now included this as part of the appendix, the compliance supplement published by OMB, so proceeds are now in there. Auditors are looking for them and they will be monitoring them as well.

So if HUD has determined that a PHA failed to properly deposit, use or report proceeds, HUD may take action and do necessary as appropriate as the delegation with the DAS of OPHI. So there can be follow up.

Okay. So additional resources on this, again, there's the PIH notice 2020-23 and we have the compliance -- the part 200 compliance, pages 446 and 447 that actually shows what auditors will look for when they're monitoring your proceeds.

We have more information on the SAC webpage and the repositioning webpages, so just know that those resources are available to you and you can look them up at any time. Okay. I'll turn it back to Dan.

Dan Esterling: Yes, thanks. Jane just covered these additional resources and just wanted to highlight the repositioning inbox in case you wanted to send things this way, but other than that I think we can take questions now.

Jane Hornstein: Okay.

Caila Prendergast: All right, so next question. "Can a loan from a PHA using COCC dollars be paid back to the PHA at closing using proceeds?"

Jane Hornstein: I mean if it was for predevelopment as a COCC loan was used for development up front, I think so. Would come in as a loan. Kathy, do you think otherwise?

Kathy Szybist: Yeah. Could you repeat that one more time? What kind of loan?

Caila Prendergast: COCC.

Jane Hornstein: They're using CO -- they're using other public housing funds to do some of the predevelopment work and then they pay that back at the closing by creating a loan using proceeds. I think that's similar to what Jessica asked earlier. I think that's fine.

Kathy Szybist: Yeah, it should -- and the development would be PBV units or public housing units? PBV units?

Jane Hornstein: I don't think they --

Caila Prendergast: Yeah, PBV units. Let me -- I'm going to make sure -- Mr. Daniels, I'm just going to unmute your line so you can clarify. Hi, Mr. Daniels. Can you clarify? Oh, he's not connected to his voice microphone. Okay, no worries there. He did clarify or ask a question is COCC not considered proceeds?

Jane Hornstein: Right, those are not considered proceeds.

Kathy Szybist: So I think what's important to note here is proceeds are going to continue to be restricted for these section 18A5 uses. A housing authority can't realize proceeds from a disposition, a real estate transaction like this, and just put them into an unfederalized COCC account or something. You can't just move them and have the COCC be able to use them for any eligible COCC purposes or something. They're going to retain their restricted uses under 18A5, so I think that's important.

There might have been some confusion in that in the past, prior publication of this notice that a housing authority could potentially just say any eligible COCC use is an eligible use of proceeds and just use them accordingly, but again, it's more limited eligible uses as described in this notice.

Caila Prendergast: Okay, I will go on to the next question. "Can you define what you mean by a short-term loan?"

Kathy Szybist: And Jane, chime in here. I think we -- I don't think we have a specific year base on that. We just want it to be a permanent loan. We want it to be obvious through the transactional details when you describe how the proceeds will be used for PBV development that it will be -- the loan will actually enable the permanent development of the units and it's not just a movement of [inaudible].

Jane Hornstein: [Inaudible]

Kathy Szybist: Yes.

Jane Hornstein: Right, it shouldn't be used for bridge loans or construction loans. It should be permanent loans.

Caila Prendergast: Okay, so I'm going to unmute the line. Someone has their hand raised. Janine, if you want to go ahead and ask your question. Okay, looks like maybe there's a tech issue there. I'll just move on to the next written question that we have. If a RAD project closed a couple years ago, can proceeds be used to do property upgrades?

Kathy Szybist: So this would be using proceeds for PBV -- modernization of the PBV units. I think the notice doesn't directly speak to that. I think it's possible and I think you would propose that to the SAC under that broad other category.

Other eligible uses as approved by HUD. So the argument would be we'd like to use proceeds to modernize PBV and existing RAD PBV project -- these are low-income housing units and therefore it's an eligible use of proceeds, so give us a descriptive narrative. What are the capital needs and just describe that and we would consider on a case by case. Jane, does that make sense to you? Anything to add there?

Jane Hornstein: No. No, that sounds good.

Caila Prendergast: Okay, next question. Could you provide examples of eligible social services for public housing residents? This type of request has come up recently from PHA residents in our conversations with them around use of proceeds.

Kathy Szybist: I think it's really broad. Jane, I don't know if you have anything to add, but really, I would just go back to any social services that the housing authority could use operating funds for, could potentially be used -- they could use proceeds for in terms of supporting residents with social services.

Jane Hornstein: Job training, things -- daycare, things like that.

Kathy Szybist: Yeah, job training, childcare, prison reentry -- yeah, just anything. I think there's a lot of flexibility and creativity that could be employed. I think also some housing authorities have said if they don't have FSS grants or Ross grants, if they could use proceeds to do similar kinds of programming and I think that's potentially possible. We're open to seeing Housing Authority's proposals here.

Caila Prendergast: Okay, great. Next question. "Can proceeds be used to encourage employment of low-income LI PIH residents by promoting commercial development that includes job creation?" If supporting a Jobs Plus program by promoting local job creation by promoting commercial development? Got a little lost in the second question there, but try to answer the first one.

Jane Hornstein: Yeah, I mean -- right, I think that's probably okay too. I mean, we would prefer to see more job training than necessarily as part of the commercial development, but I mean, if the job training is building and construction work, then yeah, I think that makes sense.

Caila Prendergast: Okay, great. Can proceeds be used to pay CFFP debts?

Kathy Szybist: Yes. So that is -- it's described in the notice and it's under public housing modernization or development and it speaks to that kind of repayment of that kind of debt is under that category. I think we say in the notice -- yeah, the development -- since it's an eligible use of CAP funds, it could be an eligible use of proceeds. So modernization and development of public housing and the notice includes payment of outstanding obligations resulting from operating fund financing, energy performance contracting, CFFS financing and other Section 30 approved financing. So again, we -- it should -- describing a SAC application, that thing that the proceeds would be used to repay outstanding CFFP debt.

Caila Prendergast: Okay, great. Thanks. So next question, in the enforcement section can referrals be sent to HUD departmental enforcement center?

Kathy Szybist: I don't know exactly. Jane, I don't know if you can speak to that. I mean, again, the [inaudible] delegation say the enforcement authority is with the DAS of OPHI, so I think in the past when we've worked the DAS and potential proceeds enforcement issues, they've made recommendations that the DAS of OPHI takes certain enforcement actions.

So I don't think -- certainly the DEC could get involved in helping to review and analyze potential violations, but I don't think the DEC can take enforcement actions without the DAS of OPHI. Jane, do you have anything --

Caila Prendergast: All right. Oh, go ahead.

Jane Hornstein: No, that makes sense. I mean, you can report them at something that you think is a violation, but all they can do is do the research and come back to OPHI.

Caila Prendergast: All right, next question. "Would it be okay to use net proceeds in the disposition of public housing scattered sites to pay off a CFP loan?"

Jane Hornstein: Yeah.

Kathy Szybist: Yeah, again, that was just -- so yeah, they would say after we dispose of all these scattered sites, we're going to have this pot of money and we're going to use it to pay off CFFP. That would be eligible.

Caila Prendergast: Okay. Cool. Next question, and this is a follow up on the earlier COCC question. If COCC is advanced as a loan, can the repayment be proceeds?

Jane Hornstein: So in other words they pay off the COCC loan using proceeds and yes, they can do that if it's into a -- like a PBV project or a modernization project, yes. If it's not an eligible use of proceeds, then no, you can't just -- if they -- I mean, so right. If it went into a tax credit project, no. That's not an eligible use of COCC funding or proceeds.

Caila Prendergast: Okay. Next one, can proceeds be used to hire a developer on staff for a PHA-owned PBV property? To clarify, the developer would be hired to develop a PBV property.

Kathy Szybist: And Jane, chime in here, but I don't know that we want like the proceeds to just pay for the development fee. Kind of aside of a whole PBV budget, if that's kind of the idea that the proceeds would just be kind of used only to pay the [inaudible].

Jane Hornstein: Yeah, [inaudible]. They were talking about hiring a developer on staff. I don't think that would be -- I mean, you could potentially do a contract for a developer, but developers typically get paid out of a development fee and therefore that should be part of a development budget. So I'm not -- I mean, it can be used if you're going to develop ACC units, I guess, because you can then pay a staff member using operating funds.

But if it's to do a PBV development, I would suggest that that money -- that anything that you're paying them would be paid out of the development budget itself in the form of a development fee and not to include them on staff.

I'm not sure that answered the question.

Caila Prendergast: Okay. We have one or two more, so if anybody else has additional questions, just drop them in the chat box and we'll get to them. So would the PHA be able to use proceeds to create a commercial enterprise such as a maintenance company and then train and hire public housing residents as employees?

Jane Hornstein: You mean using it as a seed capital for training purposes and hiring residents? I would think they could.

We'd have to take a look at that. I think that would probably be under the leveraging a commercial enterprise, but I would think that might be feasible, especially if they're hiring residents.

Caila Prendergast: Okay. Sounds good. So next question is for me, I think.

Jane Hornstein: Okay.

Caila Prendergast: So the questions are good. "Will this training be published for others in a way of an FAQ or other means?" So this session is being recorded and will be posted on HUD exchange. In terms of an FAQ, I'm not sure if that's something that we are going to do at this point, but this session will definitely be recorded and everything is available on HUD exchange.

Jane Hornstein: And the PowerPoint will be made available too.

Caila Prendergast: Yes, yes. Of course, thank you.

Jane Hornstein: Yeah. Yeah.

Caila Prendergast: One more question. Can proceeds be used to engage a development consultant to assist with repositioning strategies for public housing units?

Kathy Szybist: Yeah, I think so, and I think this would fall under just operational uses. So any eligible use of 990 would also be an eligible use of proceeds and the idea would be hiring a consultant to explore options for the public housing, the future of your public housing units, which could include repositioning tools. It could also include EPC and CFFP and other ways to kind of maintain and possibly reposition public housing in the best way for the community. It would be -- since public housing operational costs can be used for these, I think proceeds could be used as well.

Caila Prendergast: Okay. That was our last question that I have in my chat box. I just want to ask Jane and Kathy and Dan real quick to make sure that there's nothing in theirs that was sent just directly to you all.

Jane Hornstein: Yeah. I don't have anything.

Dan Esterling: Neither do I.

Caila Prendergast: Okay. We just -- we have one more, a follow-up to the question about scattered sites and a CFP loan. Talking about an in-house development coordinator to pull the project together and all the consultants.

Jane Hornstein: Wait, have a consultant come in? [inaudible] pay for consultants? Is that the question?

Kathy Szybist: Yeah, can you --

Caila Prendergast: Yeah, I'll read it again and then if we can maybe unmute that person's line to get some clarify if we need it. But the follow up was the original question was would it be okay to use net proceeds in the disposition of public housing scattered sites to pay off a CFP loan. Then the follow-up was I'm talking about an in-house development coordinator to pull the project together and all the consultants.

Jane Hornstein: Oh, is that with the -- that's to put somebody on staff. I mean, they can be used for any use that an operating fund can be used for, so if operating funds can be used for that purposes, proceeds can too. I don't know if that answers the question.

Caila Prendergast: Okay, let me -- Candace, I'm going to unmute your line for you.

Candace: Can you hear me?

Caila Prendergast: Yep, we can hear you.

Jane Hornstein: Yes.

Candace: Okay. So the question is, "So we don't have operating funds because we don't have public housing anymore and we want to develop a PHA-owned property that will have PBV and we're a small housing authority so we wanted to hire a development coordinator. Essentially the person is working from the HCV side, because it would be a PBV property, so I wanted to know if it would be okay to use those funds to pay that person's salary."

Jane Hornstein: You could. I mean, I'm not sure I understand the logic of doing that versus having them be part of the development team and paying them a developer fee.

Candace: We're not talking about the developer fee, we're talking about someone in-house who coordinates all the developments that we have going on and makes sure -- so we would still have to hire a developer to do the traditional development portion, but we do need someone in-house to -- yeah, to manage all the developments that are happening.

Kathy Szybist: And is this PBV development or public housing development?

Candace: We would like to do a PBV development. We don't have any more public housing.

Kathy Szybist: So to pay the staffing costs, Housing Authority staffing cost of someone in-house to kind of oversee the housing authority's PBV development?

Candace: Yes, and we're hoping to do multiple, yes.

Kathy Szybist: So the notice does speak to this a bit. So if this were eligible, it would be under that broad increasing the supply, availability and utilization of low-income housing and this is Section F of the notice on page seven.

The last bullet on that eligible use states administrative costs associated with the PBV program such as running a PBV competition, making the selections, carrying out PHA pre-HAP responsibilities. So if what you're talking about could be those kind of administrative costs, and the staffing costs associated with that, I think proceeds could be used. If you're talking about cost of PBV projects like a PHA owned PBV project and developing a PBV project, then that would have to fall under the PBV project cost.

Candace: Got it.

Kathy Szybist: Again, we'd need to see the housing authority's plan for how the hiring of the developer -- this development person on staff is going to result in more hard PBV units.

Candace: Got it. Thank you.

Caila Prendergast: Okay, thanks everybody. I'm not seeing any more questions on my end, so I'll pass it over to you, Dan or Jane, to close us out.

Jane Hornstein: Okay. Well, I want to thank everybody for coming. This was helpful and it always helps us to hear questions and understand what you're thinking about, so thank you for participating.

This was really helpful and I think that's it.

Caila Prendergast: Okay, thanks. And just remember as you're logging out, you'll get a pop up with a quick survey to fill out and we would really appreciate it if you took some time to do that. Enjoy the rest of your day, everybody. Thanks.

Jane Hornstein: Thanks, everybody.

Kathy Szybist: Thanks.

(END)