



Special Attention of:

Public Housing Agencies and Related Interests

Notice PIH 2021-37

Issued: December 21, 2021

This notice remains in effect until amended, superseded or rescinded; This notice supersedes Notice PIH-2017-22

Cross Reference: 24 CFR 990.190(h) and 24 CFR Part 970

Notice PIH-2017-22
Notice PIH 2019-23
Notice PIH-2021-07

SUBJECT: Guidance on Eligibility for Asset-Repositioning Fee (ARF)

- 1. Applicability:** This notice applies to all public housing agencies and authorities (PHAs) administering Public Housing, including Moving to Work (MTW) PHAs with Alternative Operating Subsidy (AOS) formulas that allow for the receipt of transition funding. Eligibility for specific activities by AOS MTW PHAs are determined by MTW agreements rather than this notice¹.
- 2. Purpose:** This guidance on the implementation of ARF follows the approval of public housing units for demolition, or disposition in accordance with 24 CFR 990.190(h). A Public Housing Agency (PHA) that transitions projects or entire buildings within a project out of its public housing inventory may be eligible for ARF, which is an add-on to Operating Subsidy eligibility. ARF supplements costs associated with administration of demolition and disposition, tenant relocation, and minimum protection and services associated with such efforts. It is not permitted for individual units within a multi-unit building.
- 3. Updates to Notice PIH-2017-22:** This notice replaces Notice PIH-2017-22, updating several provisions. Most notably, this notice updates the following sections:

¹ The Allowable Expense Level (AEL) is used instead of PEL in calculating ARF for AOS MTW PHAs that use AEL in their operating subsidy eligibility calculation. Some AOS MTW Agreements allow PHAs to elect whether or not to claim ARF, in which case the PHA is responsible for claiming ARF, or not, but may only do so in conformance with the MTW Agreement.



- a. Section 5, Includes ARF eligibility for Projects (or entire buildings) a PHA demolishes in accordance with de minimis demolition authority requirements of 24 CFR part 970.
 - b. Section 6: Eliminates ARF eligibility for Units Sold or Projects (or entire buildings sold pursuant to an Approved Homeownership Plan Projects (or entire buildings) transitioned to homeownership (i.e., sold and removed from inventory) under a homeownership plan pursuant to Section 32 of the 1937 Act (or former Section 5(h) of the 1937 Act) are not eligible for ARF.
- 4. Ensuring PIC Data Accuracy and ARF Eligibility in the form HUD-52723:** PHAs must comply with regulatory requirements at 24 CFR 990.190(h) and ensure that ARF-related data in the Public and Indian Housing Information Center (PIC) system is accurate and ties to the ARF calculation. Beginning in FY 2018, PIH Field Offices (FOs) use the ARF MicroStrategy Report to determine ARF eligibility and funding levels, which in turn uses key data elements from PIC and streamlines the calculation process for FOs to validate ARF eligibility as submitted by PHAs in the submission of their form HUD-52723.

If PIC data used in the calculation of ARF are not accurate, PHAs initiate the requisite changes by submitting an electronic request for an ARF change through form HUD-52723: Operating Fund Calculation of Operating Subsidy — PHA-Owned Rental Housing (See link below). Section 3, Line 14 of form HUD-52723 is pre-populated by HUD with ARF eligibility based on PIC source data. PHAs must revise the pre-populated amount if it is inaccurate, submitting appropriate documentation to the FO to support any changes made. The FO reviews the form HUD-52723 and supporting documentation (and provides feedback and/or corrections as needed).

PHAs must comply with submission deadlines to allow enough time for FOs to review submissions. Each year, quarterly submission deadlines are published either in the annual Operating Subsidy Processing notice, or on the Operating Fund web page (see link below).

[https://portal.hud.gov/hudportal/HUD?src=/program offices/public indian housing/programs/ph/am](https://portal.hud.gov/hudportal/HUD?src=/program%20offices/public%20indian%20housing/programs/ph/am)

- 5. Eligible Projects (or Entire Buildings):** All units in a project (or for partial demolition, an entire building in a project) must transition out of the PHA's inventory to be eligible for ARF.

The following dwelling units are eligible for ARF:

- Projects (or entire buildings) approved by HUD for Demolition and/or Disposition under Section 18 (if all units in the building are removed under Section 18—see last bullet under ineligible units). Eligible demolitions and dispositions are those approved by HUD under regulatory requirements at 24 CFR part 970, other than dispositions for Mixed Finance Modernization as described in Section 6 of this notice.



- Projects (or entire buildings) approved by HUD for demolition pursuant to a HOPE VI Revitalization Plan or a Choice Neighborhoods Plan. The ARF for units demolished under Section 24 of the United States Housing Act of 1937 (1937 Act) are equal to the ARF for demolition per 24 CFR 990.190(h)(3).
- Projects (or entire buildings) a PHA demolishes in accordance with de minimis demolition authority requirements of 24 CFR part 970. Failure to follow the de minimis requirements will result in ineligibility for ARF. ARF will only be available here when a de minimis demolition involves projects or entire buildings of a project.

- 6. Ineligible Projects (or Entire Buildings):** Where entire projects are removed from inventory before the start of the funding year via methods that are not eligible for ARF, those projects will not receive Operating Subsidy. Where an entire project was not removed from inventory before the start of the funding year, units will be funded based upon their unit status during the operating fund reporting period (the period beginning July 1 and ending June 30 before the funding year). Partial removal adjustments to unit months and eligibility are made during the operating fund revision period

The following are not eligible for ARF:

- a. Projects (or entire buildings) converted to Project-Based Vouchers (PBV) or Project-Based Rental Assistance (PBRA) under the Rental Assistance Demolition (RAD) program. For more guidance, see Section 1.5 C of RAD Notice PIH 2019-23 (HA) REV 4.
- b. Projects (or entire buildings) approved by HUD for voluntary or required conversion under Section 22 of the 1937 Act (conversion of a public housing project to vouchers) or Section 33 of the 1937 Act (conversion of a distressed public housing project to tenant-based assistance).
- c. Projects (or entire buildings) retained by a PHA under 2 CFR Part 200 (i.e., units that are neither demolished nor disposed of) and used as affordable housing (with or without tenant-based or project-based assistance).
- d. Unit months for projects (or entire buildings) that have reached the end of their ARF timeline but remain under the Annual Contributions Contract (ACC) (i.e., have not yet been removed from inventory). Such unit-months are identified at Section 2, Column A, line 13 of form HUD-52723.
- e. Mixed Finance modernization projects under 24 CFR 905.604(a)(4) which retain regular operating subsidy throughout the rehabilitation period, until the time they are placed under a Mixed Finance ACC Amendment.
- f. Projects (or entire buildings) sold Pursuant to an Approved Homeownership Plan. Projects (or entire buildings) transitioned to homeownership (i.e., sold and removed from inventory) under a homeownership plan pursuant to Section 32 of the 1937 Act (or former Section 5(h) of the 1937 Act) are not eligible for ARF.
- g. When units in a building are removed from inventory via a combination of ARF eligible methods such as Section 18 of the 1937 Act, and ARF ineligible methods, such as RAD, (which would primarily be done as part of a RAD/Section 18 Blend outlined in PIH Notice 2021-07), none of the units in the building will be eligible for



ARF. If a removal action encompasses multiple buildings, eligibility will be determined on a building-by-building basis. Projects (or entire buildings) removed via Section 18 will be eligible for ARF if all the units in the building are removed from inventory pursuant to Section 18.

7. **ARF Timeline:** The ARF timeline by which ARF eligibility commences, as specified in 24 CFR 990.190(h)(2), begins "on the first day of the next quarter six months after the date the first unit becomes vacant after the relocation date included in the approved relocation plan." Calculations for units categorized for demolition and disposition are located at 24 CFR 990.190(h)(3)-(5).

24 CFR 990.190(h)(5): Sample Calculation

- (5) *The following is an example of how eligibility for an asset-repositioning fee is determined:*
 - (i) *A PHA has HUD's approval to demolish (or dispose of) a 100-unit project from its 1,000 unit inventory. On January 12th, in conjunction with the PHA's approved Relocation Plan, a unit in that project becomes vacant. Accordingly, the demolition/disposition-approved project is eligible for an asset-repositioning fee on October 1st. (This date is calculated as follows: January 12th + six months = July 12th. The first day of the next quarter is October 1st.)*
 - (ii) *Although payment of the asset-repositioning fee will not begin until October 1st, the PHA is eligible for full operating subsidy based on the 1,000 units through September 30th. On October 1st the PHA will begin its eligibility for the 36-month asset-repositioning fee in accordance with paragraph (h)(3) of this section for the 100 units approved for demolition. (Asset repositioning fee requirements for projects approved for disposition are found in paragraph (h)(4) of this section.) On October 1st, the PHA will have 900 units eligible for normal operating subsidy.*

The ARF timeline applies to an entire demolition/disposition approval (DDAP) and covers all ARF-eligible units in a given DDAP. PHAs and FOs must validate appropriate PIC data and ARF eligibility in the first year a PHA claims ARF because once a PHA starts receiving ARF. The PHA cannot change any data elements used in the calculation, such as move in date, number of units, PEL, or inflation factors.

The DDAP Date is the date of the SAC approval as recorded in the PIC Inventory Removals Module (IRM).

- A. **Number of Days to Relocation from the DDAP Date:** This is the number of days after approval at which point the PHA plans to begin relocation of residents or Planned Relocation Start Date. This data field in the IRM is Section 5, Line 13a as Days to Relocation and is calculated by adding the Days to Relocation to the DDAP



date. For DDAPs with occupied units, this is the most critical and most flexible data element in determining the ARF timeline.

When units are occupied on the DDAP date, the number of Days to Relocation must be at least 90 days from when families were notified of the demolition or disposition as provided by 24 CFR 970.21(e)(1). When submitting an application for demolition or disposition, which pertains to occupied units, a PHA enters a number, or 90 days or more, as the Days to Relocation except in cases of imminent threat to health and safety.

When a DDAP's actual relocation start date is substantially different from the Planned Relocation Start Date, the ARF timeline could be impacted. As explained further below, PHAs are limited from making changes to PIC DDAP data impacting the ARF timeline after ARF begins. It is imperative that PHAs ensure they change the Days to Relocation in the PIC DDAP when there is a significantly change in the Days to Relocation. If the initial date entered in the DDAP causes the ARF timeline to be materially delayed, or to start materially early, a change must be entered by the PHA. This is important because units eligible for ARF are not eligible for 'regular' Operating Subsidy and funding for units essentially stops at the end of the ARF timeline. (See Section 8 of this notice.)

- B. Move-outs Before or After the Relocation Start Date:** When units remain occupied as of the relocation start date, calculation of the ARF timeline (i.e., the ARF Start Date) is "triggered" by the first move-out after the Planned Relocation Start Date. The End of Participation Date in the form HUD-50058 is used to determine the first move out after the Planned Relocation.

Situations may arise when tenants move out earlier than 90 days—for example, voluntary move-outs or move-outs due to imminent health and safety issues. Voluntary move-outs occurring before the Planned Relocation Start Date do not constitute the beginning of the PHA's required relocation of residents. Therefore, the Days to Relocation in the PIC DDAP should not be adjusted. PHAs and FOs review move-out data in PIC to ensure it is accurate and corresponds with the first move-out after the Planned Relocation Start Date.

- C. ARF Dates After Move-outs:** The term "ARF Trigger Date" refers to the date on which the six-month period begins. If all units are vacant on the date of approval of the DDAP, the approval date is the Trigger Date for the purpose of determining the ARF timeline. If units are occupied on the DDAP date, but no units are occupied on the Planned Relocation Start Date, then the planned relocation becomes the ARF Trigger date. If units are occupied on the relocation start date, the first move out on or after the relocation start date becomes the trigger date.



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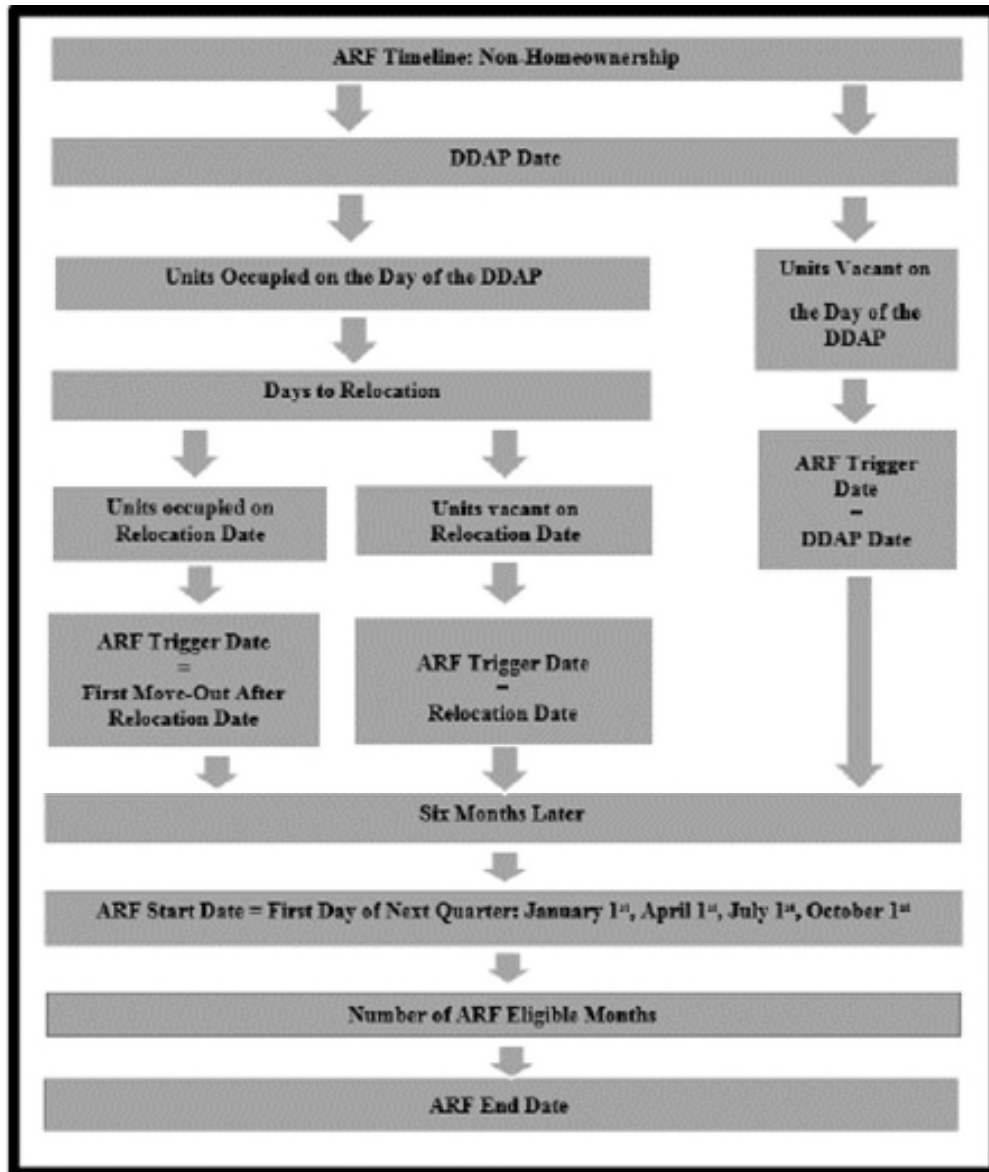
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Once the ARF Trigger Date is established, six months are added to the ARF Trigger Date plus six months in accordance with 24 CFR 990.190(h)(2). ARF funding eligibility begins on the first day of the next quarter (January 1st, April 1st, July 1st, or October 1st) immediately after the ARF Trigger Date + six months.

Number of ARF-Eligible Months: These are the number of ARF-eligible months based on the type of inventory removal action: 36 months for demolition and 24 months for disposition.

ARF End Date: This is always the last day of the quarter that ends 36 months or 24 months after the ARF Start Date. ARF eligibility expires on the ARF End Date. If a PHA has no units under ACC, but one or more of its projects are ARF eligible, those projects(s) remain eligible for Operating Fund grants as long as the units remain eligible for ARF.

The following chart depicts the sequence of dates for ARF actions.



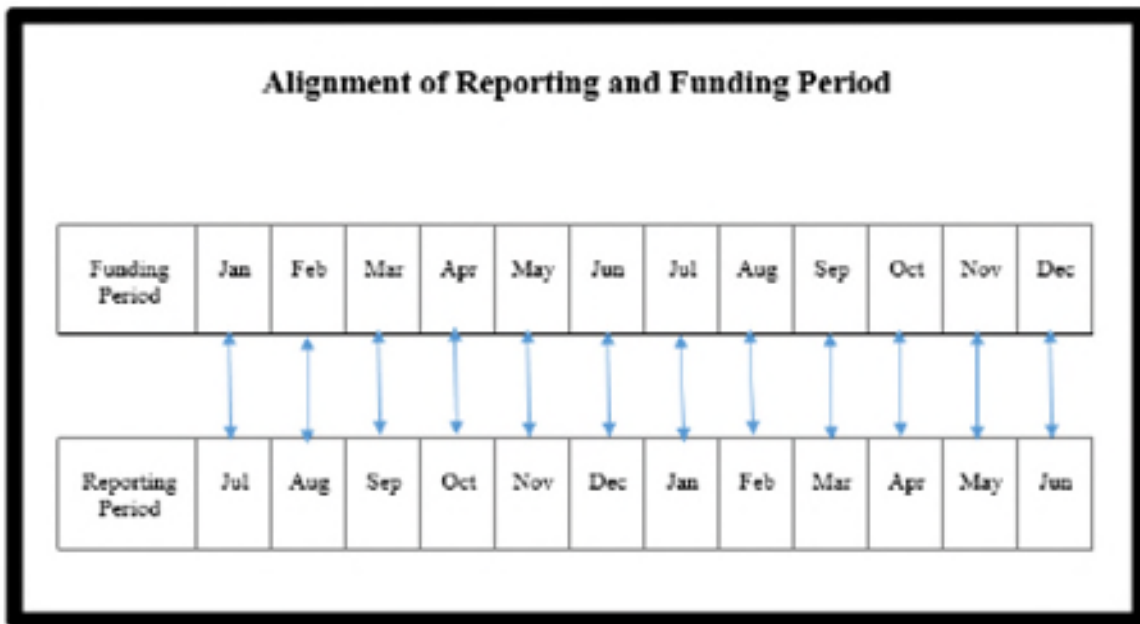
- 8. How to Identify Unit Months:** Once units are eligible to receive ARF, they must not be included in Section 2, Lines 01 to 11 of the form HUD-52723. Instead, provided the units have not been removed from inventory (i.e., are still under the ACC) the unit month data is reflected in Line 12 (Units Eligible for ARF). After ARF eligibility ends, if the units are not yet removed from the ACC, they must be reported in Column A, Line 13.

In prepopulating Section 2 of the **form** HUD-52723, HUD moves unit months that would otherwise, be placed in Lines 1 through 11, to lines 12 or 13 based upon the ARF eligibility status and timeline based upon PHA-submitted PIC data. To confirm this data, the PHA determines from which category the unit months were removed and then places in either Line 12 or Line 13.



If ARF eligibility begins in the funding period for a DDAP after the **form** HUD-52723 is deployed, or if ARF eligibility changes after the deployment of the HUD-52723, then the PHA resubmits its **form** HUD-52723, requesting the FO make the appropriate changes as specified by the PHA in the comments field of the **form** HUD-52723. Any changes must be submitted by the revision deadline, as established in the annual Operating Subsidy processing notice.

For example, if ARF begins on October 1st the PHA reports three unit-months (October, November, December) on Line 12, Section 2. Correspondingly, three unit-months are removed from Lines 1 through 11. The three unit-months would then be removed for the months April, May, and June respectively.



The ARF funding for disposition unit month reported in Section 2, Column A, Lines 12 and/or 13 may be different from those used to calculate ARF funding amounts reflected in Section 3, Part A, Line 14. This is because unit months used to calculate ARF funding amounts are not required to be under the ACC; however, only ACC units are included in Section 2 regardless of their ARF status (i.e., a unit eligible for ARF that is already removed from inventory will not have unit months included in Section 2 after the removal date during the reporting period).

9. Calculating ARF Amounts

- A. **Required Supporting Documentation:** HUD prepopulates ARF eligibility in the form HUD-52723 using the ARF eligibility based upon PIC data. In the first year of ARF



eligibility, PHAs submit the following supporting documentation at the time of their submission of a form HUD-52723:

1. Project number and DDAP number;
2. Copy of the DDAP letter and any amendments thereto; and
3. If modifications of the prepopulated ARF eligibility in a **form** HUD-52723 is needed, the PHA submits a spreadsheet showing the ARF eligibility calculation, including:
 - a. Date of the approval letter;
 - b. Number of Days to Relocation after the approval letter is issued, and the resulting Planned Relocation Start Date;
 - c. The first move-out after the relocation date (must be consistent with the EOP in **PIC**), or a statement that all units were vacant on the date of the approval letter or on the relocation date;
 - d. Number of ARF-eligible units as stated in the DDAP letter;
 - e. Number of ARF-eligible months; and
 - f. Number of ARF unit months is equal to the number of ARF-eligible months multiplied by number of ARF-eligible units.

B. Project Expense Level (PEL) and PEL Inflation Factor from the first year of the ARF timeline are used to calculate ARFs. If a PEL is not available that year, then the PEL from the prior year is used. If that is not available, the process is continued until a PEL for the project is found. If a PEL cannot be determined using this approach, HUD uses other means to identify a PEL, such as identifying a PEL from a similar project in accordance with 24 CFR 990.165. Once the ARF timeline is established, the following methodology is followed:

1. For each calendar year of the ARF timeline, the PEL is inflated for each year since the year of the PEL using the PEL Inflation Factor.
2. The Table below shows sample calculation for a demolition project where the ARF Start Year (i.e., Y1) PEL is \$400.00, and the ARF Start Year is 1.032

Year (Y)	Calculation	PEL (P)
Y1	\$400.00	P1= \$400.00
Y2	1.032 * \$400.00	P2 = \$412.80
Y3	1.032 * \$412.80	P3 = \$426.01
Y4	1.032 * \$426.01	P4 = \$439.64



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The project Program Expense Level (PEL) is not used due to potential non-existence if all units within a project have been removed from inventory. Also, if units remain in the project, the PEL could increase or decrease substantially due to the units removed from inventory. Therefore, the PEL and the PEL inflation factor from the first year of ARF are used.

ARF eligibility prepopulated in the form HUD-52723 can only be changed via revisions to the underlying PIC data. Absent extenuating circumstances, the relocation date (Days to Relocation) is generally the only field that may be changed. Therefore, the Planned Relocation Start Date (Days to Relocation) in the first year of ARF eligibility, is critical.

PHAs confirm that the Days to Relocation represent the planned start of their relocation. While the Days to Relocation result in a Planned Relocation Start Date and an actual date is not required, given that the Planned Relocation Start Date directly impacts the ARF timeline, the date represents the approximate planned start of relocation.

C. Changes to Days to Relocation in PIC DDAP Data: Changes may be made to a submitted Days to Relocation for both approved and not yet approved DDAPs.

To modify Days to Relocation for submitted (but not yet approved) DDAPs in an approved SAC application, the PHA submits a request to its Field Office to modify the information. Specific steps follow:

1. PHA sends an email to the Field Office Director (adding PH staff assigned to the PHA) with the subject line: "PHA Code, SAC application DDAP Number, Modification to Days to Relocation". The PHA includes the new estimated number for the Days to Relocation, along with a brief explanation of the reason for the change and a revised **form** HUD-52723 for the current year.
2. Field Office reviews the justification for consistency (e.g., information from residents that relocation has started) and that the new estimated Days to Relocation is not past the Operating Fund subsidy revisions deadline in the first year of ARF eligibility. The Operating Fund subsidy revisions deadline is the date after which HUD no longer accept PHAs' requests for revisions to the **form** HUD-52723.
3. If the PHA's request is acceptable, SAC modifies the Days to Relocation in the SAC application and emails the PHA confirming the change. HUD processes these modifications as technical corrections to approved SAC applications without a formal amendment of the SAC application. Field Office processes the revised **form** HUD-52723.



4. If the PHA's request is not accepted (e.g., the requested new Days to Relocation is past the Operating Fund subsidy revisions deadline), the Field Office denies the change in writing and rejects the revised **form** HUD-52723.

D. ARF Funding for Demolition and Disposition:

ARF funding for demolition is calculated at the rate of 75 percent PEL per unit for the first twelve months, 50 percent PEL per unit for the next twelve months, and 25 percent PEL per unit for the next twelve months. (12 + 12 + 12 = 36 months maximum) pursuant to 24 CFR 990.190(h)(3).

ARF funding for disposition is at the rate of 75 percent PEL per unit for the first twelve months and 50 percent PEL per unit for the next twelve months. (12 + 12 = 24 months maximum) pursuant to 24 CFR 990.190(h)(4).

10. **ARF Funding Period Versus Operating Subsidy Funding Year:** The ARF funding period may or may not coincide with the Operating Subsidy funding year. If the 36-month ARF funding period for demolition begins on January 1st and coincides with the start of the Operating Subsidy funding year, then the ARF funding period spans exactly three Operating Subsidy funding years. But if demolition begins April 1st, or July 1st, or October 1st, then the funding period overlaps into a fourth year.

If the 24-month ARF funding period for disposition begins on January 1st and coincides with the start of an Operating Subsidy funding year, the ARF funding period spans exactly two Operating Subsidy funding years. But if disposition begins on April 1st, or July 1st, or October 1st, the funding period overlaps into a third year.

11. **Phased Demolition and/or Disposition Actions with Different Relocation Dates:** PHAs generally enter all units eligible for ARF into one form HUD-52860. However, a PHA can demolish and/or dispose different buildings in one project in multiple phases using a staggered timeline such that units in the later phases remain eligible for operating subsidy until a later demolition phase. To do this, multiple SAC applications (with separate DDA numbers) are submitted in IMS/PIC, with different relocation start dates for each phase. If the same supporting documentation applies to each phase, the PHA submits a single set of supporting documentation (e.g., board resolution, government consultation, environmental review) with one SAC application number. The SAC identifies in PIC each phase as a separate and distinct application number, generally approving a phased demolition or disposition in one document.
12. **Adjusting Rolling Base:** If all units in a project are ARF eligible, they are removed from the ACC on the day they become ARF eligible. Therefore, the project is not eligible for the Utilities Expense Level (UEL), Formula Income, and other Add-ons in the Operating Fund formula. If some units become ARF eligible, the remaining non-ARF units remain eligible for the non-ARF portions of the Operating Fund formula. However, once less than a full



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twelve months of consumption is included in Line 1 of the form HUD-52722, the consumption for the removed buildings must be removed from the rolling base in the form HUD-52722.

13. **Paperwork Reduction Act:** The information collection requirements contained in this document are approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). The OMB control numbers are 2577-0029 and 2577-0075.
14. **PENALTY FOR FALSE CLAIMS AND STATEMENTS:** Anyone who knowingly submits a false claim or makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. §§ 287, 1001, 1010, 1012; 31 U.S.C. §3729, 3802).
15. **Technical Assistance:** For Operating Subsidy inquiries, contact your local FO. For technical assistance related to Section 18 demolition and/or disposition actions, please contact the SAC at (312) 353-6236.

_____/s/_____
Dominique Blom
General Deputy Assistant Secretary
Public and Indian Housing