

New Roads, LA, False River Rgnl, NDB RWY 36, Amdt 2

Alpena, MI, Alpena County Rgnl, RNAV (GPS) RWY 1, Orig

Detroit, MI, Willow Run, RNAV (GPS) RWY 23L, Amdt 1

Motley, MN, Morey's, Takeoff Minimums and Obstacle DP, Orig, CANCELLED

St Louis, MO, Lambert-St Louis Intl, ILS OR LOC RWY 12R, Amdt 21D

St Louis, MO, Lambert-St Louis Intl, ILS OR LOC RWY 30L, Amdt 12

Charlotte, NC, Charlotte/Douglas Intl, ILS OR LOC RWY 18C, Amdt 9A

Charlotte, NC, Charlotte/Douglas Intl, ILS OR LOC RWY 18L, Amdt 6A

Charlotte, NC, Charlotte/Douglas Intl, ILS OR LOC RWY 36C, ILS RWY 36C (CAT II), ILS RWY 36C (CAT III), Amdt 15C

Charlotte, NC, Charlotte/Douglas Intl, ILS OR LOC RWY 36R, ILS RWY 36R (CAT II), ILS RWY 36R (CAT III), Amdt 10A

Charlotte, NC, Charlotte/Douglas Intl, RNAV (GPS) RWY 18C, Amdt 2A

Charlotte, NC, Charlotte/Douglas Intl, RNAV (GPS) RWY 36C, Amdt 2A

Charlotte, NC, Charlotte/Douglas Intl, Takeoff Minimums and Obstacle DP, Amdt 4

Manchester, NH, Manchester, Takeoff Minimums and Obstacle DP, Amdt 9

Wilmington, OH, Clinton Field, RNAV (GPS) RWY 21, Amdt 1

Chester, SC, Chester Catawba Regional, GPS RWY 17, Orig, CANCELLED

Chester, SC, Chester Catawba Regional, GPS RWY 35, Orig, CANCELLED

Chester, SC, Chester Catawba Regional, RNAV (GPS) RWY 17, Orig

Chester, SC, Chester Catawba Regional, RNAV (GPS) RWY 35, Orig

Newberry, SC, Newberry County, NDB RWY 22, Amdt 6

Newberry, SC, Newberry County, Takeoff Minimums and Obstacle DP, Amdt 1

Knoxville, TN, McGhee-Tyson, NDB RWY 5R, Amdt 5A, CANCELLED

Knoxville, TN, McGhee-Tyson, RNAV (GPS) RWY 5R, Amdt 1

Knoxville, TN, McGhee-Tyson, RNAV (GPS) RWY 23L, Amdt 1

Sevierville, TN, Gatlinburg-Pigeon Forge, RNAV (GPS) RWY 10, Orig

Sevierville, TN, Gatlinburg-Pigeon Forge, VOR/DME RWY 10, Amdt 6

Carthage, TX, Panola County-Sharpe Field, NDB RWY 35, Amdt 2

Carthage, TX, Panola County-Sharpe Field, RNAV (GPS) RWY 17, Orig

Carthage, TX, Panola County-Sharpe Field, RNAV (GPS) RWY 35, Orig

Carthage, TX, Panola County-Sharpe Field, Takeoff and Minimums and Obstacle DP, Orig

Mason, TX, Mason County, Takeoff Minimums and Obstacle DP, Orig

Pleasanton, TX, Pleasanton Muni, GPS RWY 34, Orig, CANCELLED

Pleasanton, TX, Pleasanton Muni, NDB-A, Amdt 5B, CANCELLED

Pleasanton, TX, Pleasanton Muni, RNAV (GPS) RWY 34, Orig

Pleasanton, TX, Pleasanton Muni, Takeoff Minimums and Obstacle DP, Amdt 1

Victoria, TX, Victoria Rgnl, Takeoff and Minimums and Obstacle DP, Orig

Price, UT, Carbon County Rgnl/Buck Davis Field, ILS OR LOC/DME RWY 36, Orig

Seattle, WA, Seattle-Tacoma Intl, ILS OR LOC RWY 16C, ILS RWY 16C (CAT II), ILS RWY 16C (CAT III), Amdt 13

Seattle, WA, Seattle-Tacoma Intl, ILS OR LOC RWY 16L, ILS RWY 16L (CAT II), ILS RWY 16L (CAT III), Amdt 4

Seattle, WA, Seattle-Tacoma Intl, ILS OR LOC RWY 16R, ILS RWY 16R (CAT II), ILS RWY 16R (CAT III), Orig

Seattle, WA, Seattle-Tacoma Intl, ILS OR LOC RWY 34C, ILS RWY 34C (CAT II), Amdt 2

Seattle, WA, Seattle-Tacoma Intl, ILS OR LOC RWY 34L, ILS RWY 34L (CAT II), Orig

Seattle, WA, Seattle-Tacoma Intl, ILS OR LOC RWY 34R, ILS RWY 34R (CAT II), Amdt 1

Seattle, WA, Seattle-Tacoma Intl, RNAV (GPS) RWY 16C, Amdt 1

Seattle, WA, Seattle-Tacoma Intl, RNAV (GPS) RWY 16L, Amdt 2

Seattle, WA, Seattle-Tacoma Intl, RNAV (GPS) RWY 16R, Orig

Seattle, WA, Seattle-Tacoma Intl, RNAV (GPS) RWY 34C, Amdt 1

Seattle, WA, Seattle-Tacoma Intl, RNAV (GPS) RWY 34L, Orig

Seattle, WA, Seattle-Tacoma Intl, RNAV (GPS) RWY 34R, Amdt 1

Seattle, WA, Seattle-Tacoma Intl, Takeoff Minimums and Obstacle DP, Amdt 4

Seattle, WA, Seattle-Tacoma Intl, VOR/DME RWY 16L/C, Amdt 14

Seattle, WA, Seattle-Tacoma Intl, VOR/DME RWY 34C, Amdt 1

La Crosse, WI, La Crosse Muni, ILS OR LOC RWY 18, Amdt 19

La Crosse, WI, La Crosse Muni, NDB RWY 18, Amdt 19

La Crosse, WI, La Crosse Muni, VOR RWY 13, Amdt 30

La Crosse, WI, La Crosse Muni, VOR RWY 36, Amdt 31

#### Effective 18 Dec. 2008

Somerville, NJ, Somerset, Takeoff Minimums and Obstacle DP, Amdt 3

[FR Doc. E8-24110 Filed 10-15-08; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### 24 CFR Part 990

[Docket Number FR-5057-I-01]

RIN 2577-AC66

### Public Housing Operating Fund Program; Increased Terms of Energy Performance Contracts

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Interim rule.

**SUMMARY:** This interim rule would make conforming amendments to the regulations of the Public Housing Operating Fund Program to reflect recent statutory amendments that allow for: The maximum term of an energy performance contract (EPC) between a public housing authority (PHA) and an entity other than HUD to be up to 20 years, and the extension of an existing EPC, without repurchase, to a period of no more than 20 years, to allow additional energy conservation improvements. The increase in the maximum EPC term, which is currently limited to 12 years, is provided by statutory amendments and will enable longer payback periods for energy conservation measures.

**DATES:** *Effective Date:* November 17, 2008. *Comment Due Date:* December 15, 2008.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 10276, Washington, DC 20410-0500. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 10276, Washington, DC 20410-0500.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables

HUD to make them immediately available to the public. Comments submitted electronically through the <http://www.regulations.gov> Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

**Note:** To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule.

**No Facsimile Comments.** Facsimile (FAX) comments are not acceptable.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Hanson, Deputy Assistant Secretary, Departmental Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 2000, Washington, DC 20410-5000; telephone number 202-475-7949 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 800-877-8339.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

Section 9(e) of the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*) (1937 Act) establishes an Operating Fund for the purpose of making assistance available to PHAs to operate and manage public housing. HUD's regulations implementing section 9(e) of the 1937 Act are located at 24 CFR part 990 (entitled "The Public Housing Operating Fund Program"). The part 990 regulations contain the policies and procedures governing the Operating Fund allocation formula used by HUD to distribute operating subsidies to PHAs.

On September 19, 2005, at 70 FR 54984, HUD published a final rule amending the regulations at 24 CFR part 990 to provide a new formula for distributing operating subsidies to PHAs and to establish requirements that PHAs convert to asset management. The September 19, 2005, final rule provides PHAs with incentives for energy conservation and utility rate reduction. The energy conservation methods may include, but are not limited to, physical improvements financed by a loan from a bank, utility, or governmental entity; management of costs under a performance contract; or a shared savings agreement with a private energy company. The final rule also provided, in § 990.185(a), that the term of the contract under which these energy

conservation measures are taken cannot exceed 12 years.

On August 8, 2005, President Bush signed into law the Energy Policy Act of 2005 (Pub. L. 109-58, 119 Stat. 594) (Energy Policy Act). Subtitle D of the Energy Policy Act amended section 9 of the 1937 Act to promote the use in public housing of innovative approaches to achieve programmatic efficiency and reduce utility costs. Specifically, section 151 of the Energy Policy Act amended section 9(e)(2)(C) of the 1937 Act, which governs the treatment of waste and utility savings under the Operating Fund allocation formula. The amendment made by section 151 of the Energy Policy Act provides that qualifying contracts for energy conservation improvements may have terms of not more than 20 years. (See 119 Stat. 647-648.) The Energy Policy Act also amended the Operating Fund treatment of savings resulting from such contracts. It allows for longer payback periods for retrofits, including windows, heating system replacements, wall insulation, site-based generation, advanced energy saving technologies, including renewable energy generation, and other such retrofits.

The Consolidated Appropriations Act, 2008 (Pub. L. 110-161, 121 Stat. 1844, approved December 26, 2007), amended section 9(e)(2)(C) of the 1937 Act (42 U.S.C. 1437g(e)(2)(C)), by adding the following clause:

"(iv) EXISTING CONTRACTS.—The term of a contract described in clause (i) that, as of the date of enactment of this clause, is in repayment and has a term of not more than 12 years, may be extended to a term of not more than 20 years to permit additional energy conservation improvements without requiring the procurement of energy performance, contractors." (See administrative provision, section 229, of title II of Division K, at 121 Stat. 2438.)

##### **II. This Interim Rule**

This interim rule amends the regulations at 24 CFR 990.185 to provide that, consistent with the amendment to the 1937 Act by section 151 of the Energy Policy Act, the term of an EPC between a PHA and an entity other than HUD may be up to 20 years. Consistent with the amendment made to section 9(e)(2)(C) by the Consolidated Appropriations Act, 2008, this rule also permits the extension of executed EPCs to a term of not more than 20 years without requiring a new competitive procurement process.

The increased maximum contract terms provided by these statutory amendments permit longer payback periods for energy conservation

measures. HUD encourages PHAs to utilize the extended contract terms to achieve additional reductions in utility consumption and costs. These statutory changes to EPC terms, as are being codified by this rule, provide PHAs with the ability to fund additional energy measures with a longer payback period, and also provide additional flexibility by allowing a PHA to extend an existing contract without needing to go through procurement.

The provision for entering into EPCs with terms greater than 12 years and for extending the terms of executed EPCs would commence to apply on the effective date of this rule.

The 20-year contract term, consistent with statutory authority, is the maximum term. If state or local laws or regulations restrict terms of EPCs to a shorter period of time, PHAs would still have to comply with the state or local government requirement.

Consistent with the statute, this rule clarifies that to qualify for the incentives under § 990.185, the financing of energy conservation measures by a party other than HUD must be undertaken pursuant to a contract. This rule also clarifies that the term "energy performance contract" encompasses all contracts that qualify under § 990.185, regardless of the energy conservation measure involved or the entity that is the other party to the contract with the PHA.

##### **III. Justification for Interim Rulemaking**

In accordance with its regulations on rulemaking at 24 CFR part 10, HUD ordinarily publishes its rules for advance public comment. Notice and public procedure are omitted, however, if HUD determines that, in a particular case or class of cases, notice and public procedure are "impracticable, unnecessary, or contrary to the public interest." (See 24 CFR 10.1.) In this case, HUD is simply conforming its existing regulations to statutory provisions that are already legally effective. In doing so, HUD is not exercising agency discretion, but rather simply following the statutory mandate. Because this is a conforming regulation, advance public notice and comment is unnecessary. However, while HUD found the statutory language to be clear as to meaning and intent and has incorporated the language without change, PHAs may seek further clarification. HUD specifically welcomes comments on the clarity of the conforming amendments, as well as on any other aspect of the rule. HUD will consider all comments submitted by the public in the final rule that follows this interim rule.

#### IV. Findings and Certifications

##### *Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This proposed rule does not impose any federal mandates on any state, local, or tribal government or the private sector within the meaning of UMRA.

##### *Executive Order 13132, Federalism*

Executive Order 13132 (entitled “Federalism”) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Order. This rule does not have federalism implications and would not impose substantial direct compliance costs on state and local governments nor preempt state law within the meaning of the Order.

##### *Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule, consistent with recent statutory amendments, provides PHAs with the flexibility to enter into energy performance contracts with terms of not more than 20 years. These revisions impose no significant economic impact on a substantial number of small entities. Therefore, the undersigned certifies that this rule will not have a significant impact on a substantial number of small entities.

Notwithstanding HUD’s view that this rule will not have a significant effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD’s objectives as described in this preamble.

##### *Environmental Impact*

This final rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or

new construction; or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

##### *Catalog of Federal Domestic Assistance*

The Catalog of Federal Domestic Assistance program number is 14.850.

##### **List of Subjects in 24 CFR Part 990**

Accounting, Grant programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

■ Accordingly, for the reasons described in the preamble, HUD amends 24 CFR part 990 as follows:

##### **PART 990—THE PUBLIC HOUSING OPERATING FUND PROGRAM**

■ 1. The authority citation for part 990 continues to read as follows:

**Authority:** 42 U.S.C. 1437g; 42 U.S.C. 3535(d).

■ 2. In § 990.185, revise paragraph (a) introductory text and paragraph (a)(3)(iv), to read as follows:

##### **§ 990.185 Utilities expense level: Incentives for energy conservation/rate reduction.**

(a) *General/consumption reduction.* If a PHA undertakes energy conservation measures that are financed by an entity other than HUD, the PHA may qualify for the incentives available under this section. For a PHA to qualify for these incentives, the PHA must enter into a contract to finance the energy conservation measures, and must obtain HUD approval. Such approval shall be based on a determination that payments under a contract can be funded from reasonably anticipated energy cost savings. The contract period shall not exceed 20 years. The energy conservation measures may include, but are not limited to: Physical improvements financed by a loan from a bank, utility, or governmental entity; management of costs under the performance contract; or a shared savings agreement with a private energy service company. All such contracts shall be known as energy performance contracts. PHAs may extend an executed energy performance contract with a term of less than 20 years to a term of not more than 20 years, to permit additional energy conservation improvements without the procurement of energy performance contractors. The PHA must obtain HUD

approval to extend the term of an executed energy performance contract.

\* \* \* \* \*

(3) \* \* \*

(iv) If energy cost savings are less than the amount necessary to meet amortization payments specified in a contract, the contract term may be extended (up to the 20-year limit) if HUD determines that the shortfall is the result of changed circumstances, rather than a miscalculation or misrepresentation of projected energy savings by the contractor or PHA. The contract term may be extended only to accommodate payment to the contractor and associated direct costs.

\* \* \* \* \*

Dated: September 11, 2008.

**Paula O. Blunt,**

*General Deputy Assistant Secretary for Public and Indian Housing.*

[FR Doc. E8–24573 Filed 10–15–08; 8:45 am]

BILLING CODE 4210–67–P

#### **PENSION BENEFIT GUARANTY CORPORATION**

##### **29 CFR Parts 4022 and 4044**

##### **Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** The Pension Benefit Guaranty Corporation’s regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans prescribe interest assumptions for valuing and paying benefits under terminating single-employer plans. This final rule amends the regulations to adopt interest assumptions for plans with valuation dates in November 2008. Interest assumptions are also published on the PBGC’s Web site (<http://www.pbgc.gov>).

**DATES:** Effective November 1, 2008.

**FOR FURTHER INFORMATION CONTACT:** Catherine B. Klion, Manager, Regulatory and Policy Division, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

**SUPPLEMENTARY INFORMATION:** The PBGC’s regulations prescribe actuarial assumptions—including interest