



June 5, 2020

FAQ FRIDAY

Use of CARES Act Funding

Q: Is there a definitive answer on what PIH Cares Act funds can be used for? I have heard “experts” say it has to be COVID-related (like Section 8 funds), but others have said it can be any eligible expense, like for day-to-day operations. Can you clarify?

A: Your question is definitely an issue right now in the industry, and best place to look for answers to are in Notice [PIH 2020-07](#) for public housing and Notice [PIH 2020-08](#) for the Housing Choice Voucher (HCV) program. Since your question is twofold, first let’s address the public housing funding via Notice PIH 2020-07. Section 2 of the notice stipulates the following for eligible activities:

*Further, the CARES Act requires that such supplemental Operating Funds shall be distributed to PHAs in accordance with the Operating Fund formula found at 24 Code of Federal Regulations (CFR) Part 990. **The funds may be used for eligible activities under the Operating Fund and the Capital Fund (Subsections (d)(1) and (e)(1) of Section 9 of the United States Housing Act of 1937 (1937 Act)) during the period the program is impacted by coronavirus, and other expenses related to preventing, preparing for, and responding to coronavirus, including activities to: (i) support or maintain the health and safety of assisted individuals and families; and (ii) support education and childcare for impacted families.***

Section 5 of the notice, Flexible Use of Funds, reiterates this same language:

*As noted above, Supplemental Operating Funds provided through the CARES Act, and **Operating Funds and Capital Funds provided through prior Acts, may be used for eligible Operating Fund and Capital Fund activities, or for coronavirus purposes as described in Section 6 of this Notice.** The flexibility to use previously appropriated Capital and Operating Funds is available to PHAs beginning on the date of this Notice and extends through December 31, 2020, unless HUD determines that it is necessary to extend the flexibility for PHAs to continue to prevent, prepare for, or respond to coronavirus. References below in this section to “when this authority expires” are referring to this date.*

I believe the text we have bolded in the selections above, and the word *or* in the second selection, is all the evidence needed to authorize the use of CARES Act funding for day-to-day expenses (feel free to do an internet search for the US Housing Act for the details of expenses). Please keep in mind that CARES Act funding will have quarterly reporting requirements and HUD does not want a PHA to requisition CARES Act funds from LOCCS for Public Housing purposes without evidence or backup documentation to support the expense.

As for the HCV funding, Notice PIH 2020-08 provides some support that these funds can be used for day-to-day expenses as well. See the excerpt Section 4 of the notice below, particularly the text we have bolded:

*Eligible Expenses for CARES Act funds as well as administrative fees under the FY 2020 Appropriations Act. Under the CARES Act, this supplemental administrative fee funding may be used only for two purposes: (1) **any currently eligible HCV (including Mainstream voucher) administrative costs during the period that the program is impacted by coronavirus**; and (2) new coronavirus-related activities, including activities to support or maintain the health and safety of assisted individuals and families, and costs related to the retention and support of participating owners.*

What is the short answer? We would highly recommend that you monitor HUD’s continued directives and FAQs on this topic, such as [HUD’s COVID-19 FAQs for Public Housing Agencies](#), updated May 29, 2020. We also recommend that you and your team track coronavirus-related expenses separately on your general ledger via a subaccount or project number, and that you take a very conservative approach to spending the money at this time. You have until December 31, 2020, to spend the money or give it back (HCV-only)—there is plenty of time to determine the best approach without causing your agency harm in the future via some Office of Inspector General (OIG) or other audit.

If you are still looking for a good resource on this topic, check out our free webinars on the two notices, which you can access [here](#). Our VP of Finance Michael Petro does an excellent job breaking down each notice and talks about exactly how funds may be used.

GENERAL NEWS

DOJ Files Sexual Harassment Suit against Michigan Housing Providers

In a [press release](#) dated June 4, 2020, the U.S. Department of Justice ([DOJ](#)) announced that it has filed a lawsuit against the owners of rental properties in Michigan for sexually harassing female tenants. [DOJ’s complaint](#) alleges that the owner violated the [Fair Housing Act](#) by subjecting female tenants to sexual harassment and retaliation from at least 2008 to 2018.

The Fair Housing Act makes it unlawful for housing providers to sexually harass a tenant, including conditioning housing on the tenant’s acquiescence to sexual demands. According to the complaint, the owner of the rental properties made repeated and unwelcome sexual comments, touched female tenants’ bodies without their consent, requested sexual favors, offered reduced or free rent in exchange for sex, and retaliated against female tenants who refused his sexual advances. The lawsuit also names as defendants two co-owners of several of the rental properties where the harassment occurred. The lawsuit seeks monetary damages to compensate the victims, civil penalties to vindicate the public interest, and a court order barring future discrimination. The complaint contains allegations of unlawful conduct, which must be proven in federal court.

In October 2017, the DOJ’s Civil Rights Division [announced](#) the [Sexual Harassment in Housing Initiative](#). The initiative specifically seeks to increase the Department’s efforts to protect individuals from harassment by landlords, property managers, maintenance workers, security guards, and other employees and representatives of rental property owners. Since launching the initiative, the Department has filed 15 lawsuits alleging a pattern or practice of sexual harassment in housing.



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