

The Commissioners' Connection



January 2019

In This Issue

PIH Notice 2018-20 EPCs 2-3

HCV & LIPH Current Funding 4-5

FSS Spotlight 6-7

Tenant Harassment Protocols for PHAs 8-9

Upcoming Training Next Issues Comm. Members 10

The President's Report



Happy New Year CONN NAHRO members and future members. Thank you for your continued support in 2018, we look forward to serving you again this year. Membership renewals have been sent out and over 120 members have renewed. Our billing for membership dues has been changed from October to January, so the new schedule for 2019 follows the calendar year. We had a busy end to 2018 with several trainings, including the review on Fair Housing regulations in November, committee meetings and updates and we are looking forward to our first general membership meeting on January 24th, I hope you can join us!

Our committees continue to meet, and I would like to thank everyone for their participation. Of note, the Small PHA Committee has been reenergized and will be meeting on a quarterly basis. Professional Development is meeting soon, and we will have a full calendar of training to you all shortly.

In the Fall, I was asked to serve on Governor-elect, Ned Lamont's, transition team and served as the co-chair of the Housing Policy Committee. We submitted a report to the Governor-elect in December and we will continue to keep our members updated on the transition. Members of CONN NAHRO and our Executive Director have also participated in the Fair Housing Regulations working group, as well as the Re-Entry Working Group.

I am looking forward to our continued work in 2019 and beyond to build upon our past successes and look to the future of affordable housing here in Connecticut. My door and email are always open. Reach out with any questions or concerns. I look forward to hearing from you and seeing you at a future CONN NAHRO event.

Sincerely,

Annette Sanderson
City of Hartford Housing Authority
CONN NAHRO President

PIH Notice 2018-20
Partnering with Utility Companies on Energy Performance Contracts
(EPCs)
Article by Janet S. Wortman, C.PA.

HUD Notice PIH 2018-20 introduces:

- A new initiative: EPC Utility Partnership Program (UPP) and
- A simplified process for low-risk EPC projects.

Here is a brief overview of the notice. Consult with Hartford HUD field office for more info:

EPC: PHAs obtain financing to fund capital improvements to reduce utility costs through Energy Conservation Measures (ECMs) such as: low-flow water fixtures, lighting & heating/cooling upgrades.

EPC partnering with a utility provider offers these advantages:

- Established relationship: Your utility provider has extensive knowledge of historical consumption, costs & regional trends.
- Expertise: Utility companies often have experience with programs similar to UPP, and competitively select qualified Energy Service Companies (ESCOs), contractors & banks.
- Motivation: Utility companies may be interested in reducing consumption to prevent costly investments to increase capacity.
- Financing: Utilities may finance all or part of the project directly. Alternatively, they may help secure favorable financing rates. Utility providers may suggest strategies to improve project feasibility.

UPP Process:

- Initial Request for Proposal (RFP): Utility company must be selected through competitive solicitation, following standard procurement procedures.
- Public Housing Agency (PHA) submits documentation to HUD Energy Center for approval
- If selected, utility provider oversees investment grade energy audit (IGEA), helps secure financing, oversees implementation & Measurement & Verification (M&V.)

Continued to Next Page

PIH Notice 2018-20
Partnering with Utility Companies on Energy Performance Contracts (EPCs)
(Continued from previous page)

Procurement considerations:

- Intergovernmental agreements: Utility company may already have EPC contracts in place with other state/local entities. Subject to HUD approval, PHAs may use an existing contract without a separate procurement process.
- Other non-competitive procurement exceptions may apply (single source, inadequate competition after soliciting several sources, preferred utility provider.)
- Project Bundling: Consider working with other PHAs to issue a single RFP to partner with a utility company with a single award. Each individual PHA must remain solely responsible for debt related to their properties.

Simplified Process for Low-Risk EPC Projects for PHAs with less than 250 units:

- Total project costs including financing must not exceed \$275,000. (This limit increases 3% annually.)
- Repayment period not longer than 5 years.
- Debt to savings ratio of 75 to 85% (Example: if annual debt service is \$10,000 then projected utility savings must be in range of \$11,765 to \$13,333)
- Frozen rolling base incentive is not available. Add-on subsidy and/or resident-paid utility incentives are available.
- Must use M&V method Option A, stipulated energy savings, to calculate the incentive.
- Must have current, effective Declaration of Trust (DOT) on all property subject to the EPC.
- Streamlined review & application process.
- Normal M&V first full year only. In subsequent years, assuming enough savings to repay debt service, PHA can use Energy Star Portfolio Manager to monitor/submit utility consumption data.

HCV & LIPH 2019 Current Funding

Article by Brian Alten, CPA

HUD has renewed expiring HAP increments for December 2018 and January 2019. The HAP funding was calculated using VMS data from January to August 2018, and then extrapolating the August 2018 data to calculate September through December. The September through December HAP inflated at one-third of the national inflation factor of 1.038%. The total was prorated at 99%. VASH and RAD funding will be included in the overall calculation of HAP funding.

Administrative Fee estimated funding for January and February was calculated using leasing data contained in the VMS for January through June 2018. The amount was capped using the number of available unit months. HUD is currently prorating Administrative Fee revenue at 80% of the 2018 Administrative Fee rate.

HUD has obligated Operating Fund subsidy for the LIPH program for the months of January and February. The initial funding for 2019 is based upon an estimate using 2018 and 2019 available subsidy formula data. More specifically, the CY 2019 prepopulated formula data and CY 2108 HUD-52723 data were used in determining the CY 2019 estimated project eligibility upon which January and February funding is based. FMD incorporated the following methodology and data when available:

- Unit status category data for the reporting period that will be prepopulated in the 2019 HUD-52723;
- 2019 Project Expense Levels (PELs) that will be prepopulated in the 2019 HUD-52723 have been used;
- 2018 Utility Expense Levels (UELs) and in certain cases, a national average UEL may have been used. These UEL PUMs were adjusted by the current 2019 UEL Inflation factor of 1.064. The UEL Inflation Factor calculation and underlying data can found on the FMD website.
- Add-on amounts from the CY 2018 HUD-52723 data for PILOT and Audit were used.
- Asset Management Fees, Information Technology, and Resident Participation funding were based in 2019 prepopulated unit status data.

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HCV & LIPH 2019 Current Funding
(Continued from previous page)

- Asset Repositioning Fees (ARF) in CY 2019 were based on projected 2019 amounts. For any RAD project, the ARF amount should not be drawn down and the field office should be contacted to consider processing a de-obligation of the amount.
- Stop Loss/Transition Funding is consistent with the 2019 prepopulated PUM amount times 2019-unit status data.
- Formula income PUM used was the CY 2018 HUD-52723 data or in certain cases a PHA average. A formula income inflation factor consistent with the Formula Income Inflation Factor CY2019 Formula Income Methodology located on the FMD website was used.
- Where the percentage difference in the 2018 eligibility and the 2019 estimated eligibility was greater than 20%, the 2019 eligibility was taken as the 2019 eligibility except generally in the case of new projects, mergers, and certain re-grouped projects.



About the Author

Brian Alten has more than 20 years of experience in areas of accounting and financial advisory for Public Housing Authorities (PHAs) across the nation. Brian has provided tax credit financial consulting to his clients, as well as mixed finance development guidance and Capital Fund Financing Program (CFFP) infrastructure instruction. He has helped PHAs maximize both subsidy and Public Housing Assessment System (PHAS) scores.

If the PHA feels the funding is too much due to conversion of some AMPs, then the PHA should refrain from drawing [excess] funds from eLOCCS. The current proration is set at 90%.

FSS Spotlight

Article by Kenneth G. House, Jr., ROSS Program Service Coordinator
New Britain Housing Authority

NBHA Success Story

Former New Britain Housing Authority resident Jessica Leggett has an amazing tale to tell – she went from homeless to homeowner in less time than it takes most people to graduate from college.

“I was homeless when I got pregnant with my daughter four years ago,” Leggett said from her new home in Bristol. “I was staying from place to place and I applied for housing. When she was about one and a half years old, we got accepted into public housing.”

Leggett made a good choice immediately after moving into her unit. She took her property manager’s advice and called inquired about the FSS Program.

“Because I had started working more, my rent was going up so the property manager told me about FSS,” Leggett said. “FSS allows housing to help me save some of my rent to reach goals and my main goal was to own my own home.”

Once Leggett had enough a down payment, she graduated and utilized the NBHA ROSS Program to get coaching, asset management, and information about Charter Oak State College. Leggett’s next goal is furthering education and continuing down the path of social mobility.

The weekend after moving into her new home, Leggett offered the following words of wisdom to other public housing residents: “It feels absolutely wonderful to own my own home. Don’t give up, you can do it, and you are worth it.”

New ROSS Program Pilot at NBHA

The New Britain Housing Authority is raising the stakes in its efforts to help residents achieve social mobility through the Resident Opportunities and Self-Sufficiency (ROSS) Program. Rather than simply connect people with service providers, NBHA ROSS Program Coordinator Ken House has formed a cohort with local agencies to deliver wraparound services. The cohort – which also includes the American Job Center, HRA of New Britain, New Britain Adult Education, Act Services, LLC, and others – will collaborate with residents on an action plan, meet quarterly to monitor progress, and track outcomes.

Continued to next page

FSS Spotlight

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“The question we will answer is simple,” House says, “Can residents leverage professional relationships to put themselves on a positive trajectory in terms of social mobility? This is a win-win situation for NBHA and our partners. We can help residents increase their self-sufficiency and make sure that agencies realize their mission and vision at the same time.”

The CARES 2020 program – Collaborating Actively for Resident Empowerment and Success –kicks off in January 2019.

“Our principal mission is providing safe, decent, affordable housing to residents,” NBHA Executive Director John T. Hamilton says. “We also have a responsibility to create a place where people can get an education, find a career, get medical, dental, and mental health care, and raise successful children.

“Our informal motto is ‘NBHA Serves’ and we do it through our ROSS Program, the great work our Resident Service Coordinator does with senior and disabled residents, and the Family Self-Sufficiency program. Our FSS Coordinators have had great success helping people build escrow accounts and buy homes. I am proud of the wide array of services we deliver.”



THE IMPORTANCE OF DEVELOPING TENANT HARASSMENT PROTOCOLS FOR PUBLIC HOUSING AUTHORITIES

Article by Tucker McWeeny, Esq.

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It is fair to say that in the past ten years there has been significant progress as far as public housing authorities in Connecticut limiting exposure to Fair Housing claims. The shift in the Civil Rights community from a 'race/color' paradigm to a 'disability' paradigm continues. It is more important than ever to evaluate your Reasonable Accommodation process and forms to limit exposure. The better the reasonable accommodation policy the fewer Fair Housing claims arise. The better your staff has been trained on Fair Housing/Reasonable Accommodation issues the fewer claims arise. Public Housing Authorities that proactively examine and constantly update policies and staff can almost eliminate exposure to the largest Fair Housing claim category.

The unique way Fair Housing damages are calculated insures that there will never be a shortage of aggressive tenant advocates targeting public housing authorities. As the industry adjusts to close one door (reasonable accommodation claims) a pivot is on the horizon. Advocates are not going to be content fondly remembering when: there were attorney fee awards completely divorced from damage awards; emotional distress was automatic and could be based solely and entirely upon the subjective testimony of the claimant; punitive damage and lost housing opportunity costs were routinely awarded. They are going to find new ways to benefit from these very Plaintiff-friendly damage calculations.

One potential growth area is tenant-on-tenant harassment claims – particularly scenarios in which a housing provider may be vicariously liable for the actions of other residents. Most people are comfortable with the idea that employers may be vicariously liable for the actions of their employees. I don't think the concept of vicarious liability as applied to other residents has been as widely accepted or appreciated.

Tenant disputes are challenging to manage. Many housing providers direct tenants/residents to an appropriate law enforcement entity. There is nothing wrong with this approach generally. However, the housing provider must make a very critical determination when examining tenant disputes and they must make it almost immediately. Has either party alleged that membership in a protected class, any protected class, played a role in the dispute? (Federal law recognizes: race, color, religion, gender, handicap/disability, familial status, national origin and soon gender identity/sexual orientation. Connecticut additionally recognizes: gender identity/sexual orientation, marital status, age, lawful source of income and veteran status). If either party in a tenant dispute alleges that any of the above protected classes played a role in the dispute it must trigger a very different response.

The housing provider has an obligation to prevent any harassment or intimidation linked with membership in a protected class. It is not enough to steer the residents towards law enforcement. Awareness of harassment or abuse based upon or linked to protected class membership triggers a duty to assist the victim.

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THE IMPORTANCE OF DEVELOPING TENANT HARASSMENT PROTOCOLS FOR PUBLIC HOUSING AUTHORITIES

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The model public housing authority response to protected class harassment is essentially identical to the model public housing authority response to hate crime activity. There is a lot of overlap between 'protected class harassment' and 'hate crimes' with respect to prohibited conduct, preparation and response.

There is a broad range of conduct covered here. Look for bias-motivated language, epithets and slurs. Victim narratives that identify a link between protected class and conduct. Patterns of similar incidents in community. Temporal links to significant dates. The problem responding to these incidents is rarely identifying the link between offensive conduct and protected class membership.

Public housing authorities should develop a protocol responding to these volatile situations.

1. Identify potential local partners to help manage responses: law enforcement; victim advocates; housing advocates; CHRO and HUD2.
2. Develop a network and response team: media; local politicians; interfaith organizations; community activists
3. Identify potential assets: partnerships with existing local organizations; youth programs; conflict resolution workshops; public service announcements;
4. Compile and disseminate resource lists;

By far the most important partnership a housing provider can create is with local law enforcement. Specific local factors are going to insure that individual protocols may look very different between one community and the next.

Unfortunately, the need for these protocols appears to be increasing steadily and there are more and more examples to examine. It is important to understand that housing providers do have a duty to intervene in these scenarios and will only benefit from developing a plan and protocols be-

Trainings



The Nelrod Company provides weekly live online courses for housing authorities which are affordable and convenient.

**For more information contact The Nelrod Company at 817-922-9000 •
www.nelrod.com**

Newsletter Articles

We are always looking for new authors. If you have an article you would like included in future issues, please email Melissa Green at mgreen@bristolhousing.org or Laura LaMar at lamar@bristolhousing.org

Upcoming Issues Articles Due

April 2019	March 15, 2019
July 2019	June 15, 2019

Please contact us with your suggestions on future articles.

Committee Members

<i>Mitzy Rowe, Chair</i>	<i>Bristol Housing Authority</i>
<i>Laura Coleman, Vice Chair</i>	<i>Webster Bank</i>
<i>Melissa Green, Co-Secretary</i>	<i>Bristol Housing Authority</i>
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Janet Wortman	Janet Wortman, CPA