



Commonwealth of Massachusetts
**DEPARTMENT OF HOUSING &
COMMUNITY DEVELOPMENT**

Deval L. Patrick, Governor ◆ Timothy P. Murray, Lt. Governor ◆ Aaron Gornstein, Undersecretary

Public Housing Notice 2012-22

To: All Local Housing Authority Executive Directors

From: Lizbeth Heyer, Associate Director for Public Housing & Rental Assistance

Subject: **Allowable Bond Funded Expenses, Including Force Account Work**

Date: December 28, 2012

The purpose of this Public Housing Notice is to provide clarification on the allowable use of bond funds (including Formula Funding) and operating funds for Local Housing Authority (LHA) modernization and maintenance. In this notice, please find for your reference:

1. An overview on how DHCD administers the two sources of funds (bond and operating);
 2. A table that outlines which LHA expenditures can and cannot be bond-funded;
 3. Guidelines on the use of bond funds for paying in-house workforce on capital projects (aka "Force Account" work); and
 4. Text from the original bond authorization bill and the relevant statute.
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1. Overview of Operating Budget and Bond Funds

LHAs have two different sources of funds for use in supporting operations. One is the operating budget, annually approved by DHCD, and the other is the capital bond fund account which is made available by legislative authorization and the selling of the authorized bonds.

- The operating budget is often funded in part by the operating subsidy account which is an annual appropriation in the state budget. The operating subsidy is used to offset any operating budget deficit occurring when approved LHA expenses exceed LHA income. The DHCD Bureau of Housing Management ('Housing Management') approves all LHA operating budgets whether or not a subsidy is to be provided and administers the operating subsidy account.
- The capital bond account is restricted by the specific language of the bonds for capital expenses. The Bureau of Housing Development and Construction administers the bond account via the Capital Improvement Plan (CIP) mechanism, which determines the size of LHA Formula Funding awards and project-specific grants. Bond expenditures are restricted for use on capital projects that meet specific criteria discussed below.

With the implementation of formula funding, LHAs now have some flexibility in synergistically deploying these two resources to best meet their needs. That said, there are legal restrictions on the use of bond funds, which can only be applied toward capital expenses that:

- Materially add value to the asset;
- Prolong the useful life by at least five years;
- Cost more than \$1,000; and
- Cover components that are being tracked in the Capital Planning System (CPS).

For further guidance, DHCD has developed the attached table for LHAs to consult when deciding when to cover an expense with bond funds (capital expenses) and when to use operating budget funds.

2. Table of Allowable Bond Funded Expenses

EXPENSE TYPE	ALLOWED TO BE BOND-FUNDED (USE CAPITAL BOND ACCT)		NOT ALLOWED TO BE BOND-FUNDED (USE OPERATING BUDGET FUNDS)	
	SITUATION	EXAMPLE	EXAMPLE	SITUATION
GENERAL CAPITAL EXPENSES	Materially adds value to the asset.	Repaint entire development envelope. (Note: This is an exception to the otherwise-enforced CPS rule).	Spot painting; interior decorating.	Maintains value of the asset.
	Prolongs useful life by at least 5 years.			Repairs/ replacements to meet or extend useful life.
	Project cost is greater than \$1,000 AND component being replaced is tracked in CPS.			Project cost is less than \$1,000, OR component is not tracked in CPS.
BUILDING SYSTEMS	Replacement of building systems based upon lifecycle.	Replace entire HVAC system.	Replace a section of pipe.	Repair to building systems.
		Roof replacement.	Roof patching.	
		Envelope: replacing more than 20% of siding.	Envelope: spot replacement of worn/damaged siding.	
		Envelope: repointing a building.	Envelope: spot repointing.	
BUILDING COMPONENTS OR EQUIPMENT	Replacement of equipment based upon lifecycle, generally as part of a long term, predictable schedule, OR as part of an overall plan to upgrade equipment (e.g., for energy or water conservation purposes).	Replacement of all kitchen appliances in a building at the end of their useful life, per industry norm.	Replacing one kitchen appliance in a unit because it is broken.	Replacing a broken piece of equipment.
		Replacement of all refrigerators to Energy Star models as part of an overall energy conservation plan.	Installing one Energy Star refrigerator in a unit as replacement for a broken refrigerator.	

EXPENSE TYPE	ALLOWED TO BE BOND-FUNDED (USE CAPITAL BOND ACCT)		NOT ALLOWED TO BE BOND-FUNDED (USE OPERATING BUDGET FUNDS)	
	SITUATION	EXAMPLE	EXAMPLE	SITUATION
UNIT TURNOVER	Primarily consists of replacement of components tracked in CPS, plus associated finish work and other incidental repairs which together are worth less than 15% of the project TDC.	Complete modernization of room(s) in a unit which has not turned over for many years or has been subject to unusually hard use so that capital components have reached ends of useful lives.	Painting; carpet cleaning; replacement of failed or failing individual appliances; cabinet refinishing and repair (as opposed to replacement).	Replace, repair, or refurbish components not listed in CPS; work typically done on unit turnover.
SITE WORK	Heavy site work requiring special equipment and special expertise.	Removal of trees or large tree limbs.	Snow plowing; lawn mowing; regular landscape maintenance.	Routine site maintenance.
STAFF: PLANNING & ADMINISTRATIO N FOR CAPITAL PROJECTS	<p>With project manager approval, LHA may use up to 10% of its Formula Funding for capital administrative purposes, including paying for staff time. AIMM authorities may use up to 13% of Formula Funding.</p> <p>See p.14 of 2011 Massachusetts State-Aided Public Housing Preservation and Modernization Program Guidelines: http://www.mass.gov/hed/docs/dhcd/p/h/formula/mass-stateaidpublichousing.pdf</p>		<p>Capital funds applied toward administration must be recorded in operating budget. Funds are still subject to bond rules for contracts and expenditures.</p>	
STAFF: LABOR FOR CAPTIAL PROJECTS	<p>Needs to be a formal, approved budget for the whole project. Wages paid on reimbursable basis at the hourly rate specific to each permanent employee. Capital bond funds cannot be used to pay staff retirement benefit costs. Requires careful record keeping.</p> <p>SEE FORCE ACCOUNT GUIDELINES ON NEXT PAGE</p>		<p>Upon approval, wages paid on a reimbursable basis, for overtime or for temporary or seasonal employees filling in for more skilled permanent employees. Requires careful record keeping.</p> <p>SEE FORCE ACCOUNT GUIDELINES ON NEXT PAGE</p>	

3. Guidelines on Use of Bond Funds for "Force Account" Work

LHAs completing a capital work project which is included in the DHCD approved CIP with their own in-house work force (known as "Force Account" work), may request reimbursement from their Formula Funding funds for the actual cost for labor hours spent on the project and for the cost of materials. The LHA should indicate in its CIP project description that it will be completing the work in-house, if that information is known at the time the CIP is submitted, and the project budget should reflect that method of completing the work.

Please note that the intent of this Force Account option is to maximize the efficient use of capital funds, but it is not intended to reduce the portion of the LHA's operating budget devoted to regular and extraordinary maintenance. Any "savings" in operating budget costs (for example, maintenance staff salaries paid by capital funds) must be used to fund other maintenance or extraordinary maintenance costs, whether for labor, materials or contracted work.

Hourly rate: For work completed within the regular work week, hours are to be billed at the employee's regular hourly rate. This includes hours by part-time staff who are working beyond their regular hours up to what would be a full-time week (40 hours). DHCD discourages the use of overtime hours for completing capital projects but recognizes there are times when use of overtime may make sense for the LHA. If the LHA is using overtime, it should document in its procurement record the reason for its use. Please note that capital funds such as Formula Funding grants can NOT be used to reimburse LHA staff retirement benefits. These costs must be paid from the operating budget.

DHCD review of the work: If the estimated cost of the work exceeds \$10,000, contact your project manager to arrange for a DHCD construction advisor to review comparable work done by the same personnel. Do not start the work unless you have received approval from your construction advisor. If the cost of the work will exceed \$25,000, you need to submit a detailed request to your project manager for approval by DHCD. Requests should include the following information:

- Qualifications: Names & job titles of the employees who will carry out and supervise the work, including experience on similar projects
- Scope: A brief description of the scope including performance specs for the materials to be chosen
- Budget: A breakout of the CIMS budget between materials, labor and soft costs
- Schedule: A proposed time frame for the scope of work to be executed, if different than the schedule in CPS, including an assessment of the LHA's ability to complete this work and regular maintenance activities.

Request for payment: Along with a Certificate of Compliance, the request for Formula Funding reimbursement should include an invoice for labor hours indicating the name of the staff person(s) that completed the work, number of hours worked, the date(s), the hourly rate (excluding retirement benefits), and indicate whether it is a regular or overtime rate. Include invoices for all materials for which the LHA is seeking reimbursement.

Accounting: Costs for wages and materials for capital projects may be expensed in the 'construction' portion of the Form 80 and are not subject to the 10% cap on administrative costs. Employee benefits for force account can be expensed in this line and are restricted to the following:

- FICA – Employer's share of social security tax

- FUTA – Employer’s share of unemployment tax
- GIC – Employer’s share of group health insurance.

4. Reference: Main Bond Authorization Bill and Relevant Statute

CHAPTER 119 of the Acts of 2008

7004-0033. For the purpose of state financial assistance in the form of grants for projects undertaken pursuant to clause (j) of section 26 of chapter 121B of the General Laws; provided, that contracts entered into by the department of housing and community development for those projects may include, but shall not be limited to, projects providing for renovation, remodeling, reconstruction, redevelopment and hazardous material abatement, including asbestos and lead paint, and for compliance with state codes and laws and for adaptations necessary for compliance with the Americans with Disabilities Act, the provision day care facilities, learning centers and teen service centers and the adaptation of units for families and persons with disabilities; provided further, that priority shall be given to projects undertaken for the purpose of compliance with state codes and laws or for other purposes related to the health and safety of residents; provided further, that funds may be expended from this item to make such modifications to congregate housing units as may be necessary to increase the occupancy rate of those units; provided further, that the department, in consultation with housing authorities, may establish a program to provide predictable funds to be used flexibly by housing authorities for capital improvements to extend the useful life of state-assisted public housing; provided further, that not less than 25 per cent shall be used to fund projects which preserve or produce housing for families and individuals with incomes of not more than 30 per cent of the area median income, as defined by the United States Department of Housing and Urban Development; and provided further, that a capital reserve account shall be administered by the department

CHAPTER 121B, Section 26, (j)

To undertake as a separate project the renovation, remodeling, reconstruction, repair, landscaping and improvement of an existing housing project or part thereof, including the reduction of undesirable unit densities in an existing housing project as deemed necessary by the department for the improvement of an existing housing project assisted by the commonwealth pursuant to section thirty-four or forty-one; provided, that an equal number of low-rent relocation units are provided to replace those occupied units which are removed in the reduction of an undesirable unit density; and provided, further, that the plans for each such project shall be undertaken in accordance with rules and regulations promulgated by the department for such projects; and provided, further, that notwithstanding the provisions of any other law, where the funding for such project or any similar state or federally funded undertaking with respect to low-rent housing exceeds fifteen million dollars, the number of households living on the original site when funds are or were committed exceeds two hundred and a receiver has been appointed for the housing authority pursuant to section one hundred and twenty-seven H of chapter one hundred and eleven, the award of construction, reconstruction, installation, demolition, maintenance, alteration, remodeling or repair contracts shall be governed by the provisions of section thirty-nine M of chapter thirty, and shall include a requirement for certification of ability to furnish labor that can work in harmony with all other elements of labor employed or to be employed in the work, and shall not be subject to the provisions of sections forty-four A to forty-four H, inclusive, of chapter one hundred and forty-nine.