

accordance with the provisions of the ACC, the 1937 Act, and HUD regulations. Income reexaminations shall be performed annually, except as provided in the 1937 Act, in HUD regulations, or in the MTW agreements. A PHA must be in compliance with all reexamination requirements in order to be eligible to receive full operating subsidy. A PHA's calculations of rent and utility allowances shall be accurate and timely.

(b) *A PHA in compliance.* A PHA shall submit a certification that states that the PHA is in compliance with the annual income reexamination requirements and its rent and utility allowance calculations have been or will be adjusted in accordance with current HUD requirements and regulations.

(c) *A PHA not in compliance.* Any PHA not in compliance with annual income reexamination requirements at the time of the submission of the calculation of operating subsidy shall furnish to the responsible HUD field office a copy of the procedures it is using to achieve compliance and a statement of the number of families that have undergone reexamination during the 12 months preceding the current funding cycle. If, on the basis of this submission or any other information, HUD determines that the PHA is not substantially in compliance with all of the annual income reexamination requirements, HUD shall withhold payments to which the PHA may be entitled under this part. Payment may be withheld in an amount equal to HUD's estimate of the loss of rental income to the PHA resulting from its failure to comply with the requirements.

### Subpart F—Transition Policy and Transition Funding

#### § 990.220 Purpose.

This policy is aimed at assisting all PHAs in transitioning to the new funding levels as determined by the formula set forth in this rule. PHAs will be subject to a transition funding policy that will either increase or reduce their total operating subsidy for a given year.

#### § 990.225 Transition determination.

The determination of the amount and period of the transition funding shall be based on the difference in subsidy levels between the formula set forth in this part and the formula in effect prior to implementation of the formula set forth in this part. The difference in subsidy levels will be calculated using FY 2004 data. When actual data are not available for one of the formula components needed to calculate the formula of this part for FY 2004, HUD will use alternate data as a substitute (*e.g.*, unit months available for eligible unit months, etc.) If the difference between these formulas indicates that a PHA shall have its operating subsidy reduced as a result of this formula, the PHA will be subject to a transition policy as indicated in § 990.230. If the difference between these formulas indicates that a PHA will have its operating subsidy increased as a result of this formula, the PHA will be subject to the transition policy as indicated in § 990.235.

[70 FR 54997, Sept. 19, 2005; 70 FR 61367, Oct. 24, 2005]

#### § 990.230 PHAs that will experience a subsidy reduction.

(a) For PHAs that will experience a reduction in their operating subsidy, as determined in § 990.225, such reductions will have a limit of:

(1) 5 percent of the difference between the two funding levels in the first year of implementation of the formula contained in this part;

(2) 24 percent of the difference between the two funding levels in the second year of implementation of the formula contained in this part;

(3) 43 percent of the difference between the two levels in the third year of implementation of the formula contained in this part;

(4) 62 percent of the difference between the two levels in the fourth year of implementation of the formula contained in this part; and

(5) 81 percent of the difference between the two levels in the fifth year of implementation of the formula contained in this part.

(b) The full amount of the reduction in the operating subsidy level shall be