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This document provides answers to frequently asked questions regarding the Faircloth Limit. Please contact your local PIH Field Office or email Repositioning@hud.gov if you have additional questions.

1. Question: What is a Faircloth Limit and where can you find it?

Section 9(g)(3) of the United States Housing Act of 1937 sets a limit on the number of Public Housing units for which a PHA may receive Capital Funds and Operating Funds. Specifically, the amendment prohibits HUD from funding the construction or operation of new public housing with Capital or Operating Funds if the units would exceed the number of units the PHA owned, assisted, or operated as of October 1, 1999 (the “Faircloth Limit”). HUD periodically publishes the Faircloth Limit for every PHA with a Public Housing program.¹ PHAs with questions on their Faircloth Limit may contact PIHOCI@hud.gov.

PHAs can develop or acquire units exceeding the Faircloth Limit, and can spend Capital Funds and Operating Funds on them, but won’t receive Capital Fund or Operating Fund allocations for those units.² For example, if a PHA had 100 units under an Annual Contributions Contract (ACC) and a Faircloth Limit of 90 units, the PHA’s annual Capital Fund and Operating Fund allocations would be calculated based on 90 units. However, the PHA could still spend Capital Fund and Operating Funds on eligible uses related to the 100 units.

2. Question: What happens to a PHA’s Faircloth Limit during repositioning?

If a PHA converts public housing through the Rental Assistance Demonstration (RAD) program, its Faircloth Limit is reduced by the number of ACC units removed under RAD in IMS/PIC, including any de minimis units.³ Faircloth Limits do not change under the other repositioning options: under Section 18 (e.g., Demolition, Disposition), Section 22 (e.g., Voluntary Conversion, Streamlined Voluntary Conversion), Section 24 (e.g., Choice Neighborhoods, HOPE VI Revitalization), Section 32 (e.g., Homeownership), Section 33 (e.g., Required Conversion), or Section 202 (e.g., Mandatory Conversion) of the U.S. Housing Act of 1937.

However, PHAs that convert units using the Very Small PHAs (50 or fewer unit) provision under Section 18⁴ or Streamlined Voluntary Conversion⁵ are prohibited from developing new public housing units regardless of their Faircloth Limit. If a PHA has zero public housing units, [PIH Notice 2019-13](#) presents how to close-out the Public Housing program either through an ACC termination, transfer, or consolidation. Once a Public Housing program ACC is terminated, any corresponding Faircloth limit becomes zero.

¹ https://www.hud.gov/program_offices/public_indian_housing/programs/ph/capfund

² See [PIH Notice 2011-69](#)

³ Versions of the RAD Notice prior to Rev. 4 excluded any de minimis units from the Faircloth Limit reduction. The change made in Rev. 4 to include all public housing ACC units from the Faircloth reduction was retroactive to include all completed RAD conversions. PHA that wished to retain prior de minimis units under their Faircloth Limit were required to contact HUD (PIHOCI@hud.gov) within 90 days of publication of the Rev. 4 Notice.

⁴ See Section 3.A.3.b of [PIH Notice 2018-04 \(HA\)](#)

⁵ See [PIH Notice 2019-05](#)



3. Question: Can PHAs transfer their Faircloth Limit?

Yes. PHAs may transfer their Faircloth Limit as part of a PHA transfer or consolidation in accordance with [Notice PIH 2014-24](#) which involves the transfer of all Public Housing assets and liabilities (in addition to the Faircloth limit). A PHA may undergo a consolidation or transfer even if it has no remaining Public Housing units, but just the transfer of a Faircloth Limit under transfer or consolidation is not permitted. A PHA may also transfer its Faircloth Limit through the PIH Partnerships Provision of RAD Notice Rev. 4⁶. PHAs interested in this option should contact the RAD Resource Desk at resourcedesk@radresource.net.

4. Question: What should a PHA do to turn Faircloth authority into public housing?

A PHA with Faircloth “authority” (i.e., a Faircloth Limit that exceeds their total ACC units) may develop or acquire additional units. Chapter 9 of the Capital Fund Guidebook⁷ and 24 CFR part 905, Subpart F provides an overview of various development options and the development process includes:

- Conventional Development
- Turnkey Development
- Acquisition With or Without Rehabilitation
- Force Account Labor
- Mixed-Finance Development⁸
- Other Methods

In addition, a PHA with Faircloth authority may develop Public Housing units with the intent to convert to RAD. PHAs interested should contact resourcedesk@radresource.net.

PHAs considering development should ensure they understand their current Faircloth Limit, any pending changes not yet incorporated, and how their Faircloth Limit or count of ACC units may change in the future. This is particularly important for PHAs participating in RAD with the associated Faircloth Limits changes.

The amount of Operating Funds and Capital Funds that a PHA receives for new Public Housing units will vary based on factors such as the building type, location, and the age of the building. PHAs should note that their Capital Fund allocation for new units may be roughly half that of older developments. PHAs may email PIHOCI@hud.gov if they need help estimating their Capital Fund allocation for new units. PHAs are encouraged to use the [Project Expense Level \(PEL\) Estimator](#) to estimate their Operating Subsidy allocation.

To ensure the timely start of Operating Funds and Capital Funds, PHAs should ensure that any new development is reported promptly in IMS/PIC or successor systems, the Actual Date of Full Availability (Actual DOFA) is promptly recorded, the units are correctly represented in the annual Capital Fund IMS/PIC certifications, and the new development is promptly reported to the Financial Management Division.

⁶ See Section 1.5.L of [RAD Notice H-2019-09 PIH-2019-23 \(HA\)](#)

⁷ <https://www.hud.gov/sites/documents/CAPITALFUNDGUIDEBOOKFINAL.PDF>

⁸ In some cases, PHAs undertake mixed-finance modernization to rehabilitate Public Housing units under an Annual Contributions Contract. Rehabbed units may be removed from inventory under one IMS/PIC development number to then re-join the inventory under a new IMS/PIC development number. These activities generally have no permanent net effect on the Faircloth Limit, as the PHA’s authority and number of units is unchanged over the long term.