

U. S. Department of Housing and Urban Development

Public and Indian Housing

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| Special Attention of: | Notice PIH 98-2 (HA) |
| Secretary's Representatives; State/Area Coordinators; Public Housing Directors; Public Housing Agencies; Section 8 Housing Agencies; Resident Management Corporations; Resident Councils | Issued: January 12, 1998 Expires: January 31, 1999 |

Subject: Treatment of Income Received from Training Programs

I. Purpose

This notice addresses questions regarding HUD's existing policy on the treatment of amounts received from training programs when determining annual income in assisted housing programs. While all of the regulatory exclusions and federally-mandated exclusions specific to training income are in Appendix 1, this notice focuses on the two exclusions most directly related to welfare reform -- 24 CFR 5.609(c)(8)(v) and 5.609(c)(13). We anticipate that the passage of the Personal Responsibility and Work Opportunity Reconciliation Act (Welfare Reform Act) will increase the number of participants in these training programs.

II. Background

HUD believes that training income exclusions are an important factor in helping public and assisted housing participants move from welfare and dependence to greater self-sufficiency.

HUD encourages housing agencies (HAs) and resident management corporations (RMCs) to share this information with applicants and participants, State welfare agencies, social service agencies, advocates, and other interested parties. Welfare agencies, for example, may be willing to design or modify their programs so that welfare recipients

living in public and assisted housing will receive the maximum benefits from these exclusions.

Actively marketing this information will better ensure that the greatest number of families that could benefit from these exclusions will in fact do so.

III. Applicability

This notice covers the Public Housing program and the Section 8 Certificate, Voucher, and Moderate Rehabilitation programs.

With the exception of 5.609(c)(13), the regulations in Appendix 1 are applicable to all of these programs. 5.609(c)(13) is applicable to public housing only.

IV. Regulatory Focus

24 CFR 5.609(c) "Annual income does not include the following:

8(v) - incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs . . ."
[Emphasis added]

(For the complete text, see Appendix 1.)

This applies to both public housing and Section 8. For public housing, it is intended to cover a number of training programs that do not qualify under 5.609(c)(13).

It excludes incremental amounts from qualifying State or local employment training programs. There is no additional 18-month exclusion after the training program is completed.

This exclusion was implemented in the April 5, 1995 Combined Income and Rent Interim Rule, which became effective on June 5, 1995. It was continued in the October 18, 1996 Combined Income and Rent Final Rule, with the clarification that only incremental increases in income resulting from a qualifying State or local employment training program are excluded.

"(13) - for public housing only: (i) the earnings and

benefits to any family member resulting from participation in a program providing employment training and supportive services in accordance with the Family Support Act (42 U.S.C. 1437t) or any comparable Federal, State, or local law during the exclusion period . . ."

Earnings and benefits means the incremental earnings. . . ." [Emphasis Added]

(For the complete text, see Appendix 1.)

This applies to public housing only, not to Section 8. It is based on Section 515(b) of the National Affordable Housing Act of 1990 (NAHA). It was first implemented through the August 24, 1994 TOPS final rule and became effective on September 23, 1994.

This exclusion was listed in both the April 5, 1995 Combined Income and Rent Interim Rule and the October 18, 1996 Combined Income and Rent Final Rule.

There are five components that must all be present for a program to qualify under (c)(13). They are discussed in the answer to question 2 in Section VII of this notice.

In order to be eligible for the 5.609(c)(8)(v) or (c)(13) exclusion, the resident must actually receive training under the provisions of the program. Merely being enrolled in a program that provides training to some participants (but not all) is not sufficient for purposes of this exclusion.

V. Definitions

The following definitions are provided to clarify terms that are used in this notice.

Training Program - A learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency.

Training may include, but is not limited to:

- classroom training in a specific occupational skill;
- on-the-job training with wages subsidized by the program;
or
- basic education.

Incremental - The increase between the total amount of welfare and earnings of a family member prior to enrollment in the training program and welfare and earnings of the family member after enrollment in the training program. All other amounts, increases or decreases, are treated in the usual manner in determining annual income.

Supportive Services - Employment training programs offering supportive services must include at least one of the following, or similar types of, social services:

- a. child care;
- b. transportation;
- c. personal welfare counseling (family/parental development counseling, parenting skills training for adult and teenage parents, substance/alcohol abuse treatment and counseling, self-development counseling);
- d. health care services (including outreach and referrals);
- e. youth leadership skills; youth mentoring.

VI. Cases Illustrating Exclusions

5.609(c)(8)(v) - Applicable to Section 8 and Public Housing

- A. Scenario: A Section 8 family member is receiving \$300 per month in Temporary Assistance to Needy Families (TANF) benefits (formerly AFDC). She enrolls in a qualifying State employment training program and receives \$450 per month in training income. The TANF benefits stop.

Action: To determine the incremental amount of earnings and benefits, subtract \$300 (benefits prior to enrollment in the training program) from \$450 (earnings while enrolled in the training program). The incremental amount is \$150. In determining income, \$300 is counted and \$150 is excluded. After completion of the training program, the exclusion ends. (There is no 18-month exclusion.)

- B. Scenario: A public housing family member is in a state training program that does not meet one or more of the conditions of the 5.609(c)(13) exclusion (see Answer 2 in Q & A section VII). The person was at zero income before entering the training program and received \$350 per month once he entered the program. He just got his first job after completing the training and earns \$700 per month.

Action: The incremental earnings of this person would be the difference between what he had before and what he made during the training program: \$350. This amount would have been excluded during the period of the training program. Once he got the job paying \$700 per month, the full \$700 would be counted. The 5.609(c)(8)(v) exclusion does not extend beyond the completion of the training program. (There is no subsequent 18-month exclusion.)

5.609(c)(13) - Applicable to Public Housing only

- A. Scenario: The head of a tenant family is receiving \$400 in TANF. She enrolls and participates in a qualifying employment training program. TANF benefits stop. She receives \$500 per month while in the training program. Upon completion of the training program, she obtains a job earning \$700 per month and has the job indefinitely.

Action: During the time she is in the training program, exclude \$100 (the difference between what she was receiving from TANF and what she is now receiving in the training program). When she obtains the job, exclude, for 18 months, \$300 per month (the difference between what she was receiving prior to the training program and what she is now receiving from employment). During the training period, and for the subsequent 18 months, \$400 is countable as income.

- B. Scenario: A public housing tenant is making \$10,000 per year, but wants to get a better job. He leaves his job and enrolls in a qualified training program, receiving \$8,000 in compensation while in that program. Immediately upon completion of the training program, he secures a job paying \$12,000.

Action: After the tenant notifies the housing agency that he has enrolled in the training program, his rent should be reduced because he will be making less. For 18 months after he secures the first job after completion of the training, include \$10,000 as income, the amount earned before he entered the training program.

- C. Scenario: Prior to enrollment in a training program, an individual was receiving \$300 in TANF benefits, \$100 in earnings and \$100 in child support. After enrollment in the training program, she now receives \$150 in TANF benefits, \$400 from the training program, and no child support.

Action: To determine the incremental amount of earnings and benefits, subtract \$400 (welfare benefits and earnings prior to enrollment in the program) from \$550 (welfare benefits and earnings after enrollment in the program). The incremental amount is \$150. In determining income, \$400 is counted as income and \$150 is excluded. For purposes of determining the incremental amount only, do not consider the child support received prior to enrollment because it is not welfare or earnings (see definition of "incremental" in Section V of this Notice). After enrollment, the child support is no longer being received, and so is not a factor.

- D. Scenario: This family consists of a mother and two daughters, ages 19 and 14, and the 19-year old daughter's child, age 2. The mother is receiving \$550 in TANF. Her 19-year old daughter is receiving \$425 in TANF. The 19-year old daughter enrolls in a training program receiving \$500 per month in compensation. The daughter's TANF benefits stop.

Action: To determine the incremental amount of earnings and benefits, subtract \$425 (the daughter's earnings and benefits prior to enrollment in the program) from \$500 per month (the daughter's earnings and benefits after enrollment in the training program). The incremental amount during the training program is \$75.00. Count as income \$975 (\$550 for the mother and \$425 for the daughter). Exclude the incremental amount of \$75.

- E. Scenario: The head of a tenant family is receiving \$400 in TANF. She enrolls and participates in a HUD-

funded training program operated by the HA. TANF benefits stop. She receives \$500 per month while in the training program. Upon completion of the HUD-funded training program, she obtains a job at the HA earning \$700 per month. She has the job indefinitely.

Action: In this case the full amount received during the training program is excluded. This comes under the provisions of 5.609(c)(8)(i) which excludes the full amounts received under HUD-funded training programs.

Upon employment with the HA, the full amount of employment income received by the person is counted, because 24 CFR 5.609(c)(13), the only provision which provides an 18-month exclusion of income upon employment, specifically precludes the exclusion of wages funded under the 1937 Housing Act Programs (which includes public housing and section 8).

The outcome in the above scenario would be the same if the training were operated by a Resident Organization (either acting on its own, or in collaboration with the HA), as long as the training program is funded by HUD.

VII. Frequently Asked Questions Related to Training Income Exclusions

Q1: Do all State welfare programs, established in accordance with the Welfare Reform Act, qualify for purposes of the 5.609(c)(13) exclusion?

A1: No. Merely being established pursuant to the Welfare Reform Act does not guarantee that the program is a JOBS comparable program.

Q2: How does a HA verify whether or not a person is in a qualifying training program under 5.609(c)(13)?

A2: The HA must ascertain that the training program has all five components listed in 5.609(c)(13). It must:

- be a program providing employment training and supportive services;
- be authorized by a Federal, State or local law;
- be funded by the Federal, State or local government;

- be operated or administered by a public agency; and
- have as its objective to assist participants in acquiring employment skills.

Q3: What does it mean that a program must be funded by the Federal, State or local government?

A3: It means that a material portion of the costs of the training program must be paid by a Federal, State, or local government entity.

Q4: What is needed in order to determine that a public agency is actually operating or administering the program, particularly where the actual training is conducted by private companies?

A4: The public agency would have to establish a training program with goals, standards, and timeframes. It would normally include tracking and monitoring systems, which would be applied universally for all training providers. Training providers would generally have to satisfy all of the standards and criteria established by the public agency. It could then be said that the program was established by the government and implemented by private companies for and on behalf of the government.

Q5: Can the income exclusion apply to more than one member of the family?

A5: Yes.

Q6: Does the exclusion apply to all members in the family?

A6: The income exclusion applies only to the individual or individuals enrolled in the qualifying employment training program.

Q7: Can the exclusion be effective for different family members for different time periods?

A7: Yes. For example, one family member might just be entering a qualifying training program under (c)(13), while another might be in the 10th month of a job under

the 18-month exclusion.

Q8: If an applicant participated in a qualified training program under the 5.609(c)(13) exclusion prior to being admitted to public housing, and secured his first job, on completion of the program, after being admitted to public housing, is he eligible for the 18-month exclusion?

A8: Yes, provided he was in the training program on or after the effective date of the Tenant Participation and Tenant Opportunities Program (TOPS) rule (9/23/94), which is when the 18-month exclusion was implemented.

Q9: If an applicant completed a training program and started her first job prior to being admitted to public housing, but only had the job for 12 months at the time she entered public housing, is she entitled to the 18-month exclusion?

A9: She would be entitled to the remainder of the 18-month exclusion, 6 months.

Q10: Does the 18-month exclusion period run continuously or does it stop and start again if the individual has some period of time during the exclusion period that he is unemployed?

A10: The 18-month exclusion period runs continuously from the date the first job begins. It would continue to run if the person switched to a second job during the 18-month period.

Q11: What would be counted as income if, during the 18 month exclusion period, the person had a break in employment?

A11: Any other income the person has during the break would be counted.

Q12: How much time can go by between finishing the training program and starting the first job?

A12. The HA should have a fair and consistent policy on this. The HA should certainly allow reasonable periods like 6 months to go by. However, the HA might decide that, if more than two years went by before the person

got the first job, the earnings from that job would be counted in full.

Q13: Is all income excluded for individuals in a training program under the (c)(8)(v) and (c)(13) provisions?

A13: Only the incremental amount is excluded (see definition of incremental in Section V).

Q14: If a family with no income enrolls in welfare in a state that requires families to go directly into a training program in order to receive a payment, what would the family's base amount be for purposes of determining the incremental increase?

A14: To determine the base amount, use whatever earnings and benefits that would have been counted prior to entering the training program. In this case, the base amount would generally be \$0 since the family had no income prior to being enrolled in the training program.

Q15: What is included in the base amount?

A15: The base amount is the total amount of welfare and earnings the family member was receiving prior to entering the training program.

Q16: What if the family has had income in the recent past, but did not have income the day they entered the training program? For instance, a family that was receiving welfare in one state terminates its welfare assistance there and moves to another state, immediately entering a training program in that second state.

A16: The HA should examine situations such as this and establish a consistent policy to follow. It is certainly acceptable to use \$0 as the base amount. The HA might also consider the person's income over a past reasonable period of time, perhaps a few months.

Q17: If a family was receiving welfare, but was either sanctioned or dropped from welfare due to refusal to participate in a training program, but later returns and agrees to participate in a training program, what would the base amount be for determining the

incremental increase?

A17: As in the previous question, the HA should determine the best way to handle this and similar situations, and include it in their policies for consistent application.

Q18: If a family member leaves the training program, just prior to completion, in order to accept a job offer, would he still be eligible for the 18-month exclusion since he did not "complete" the training program?

A18: If he has substantially completed the program, the HA could conclude that he qualifies for the 18-month exclusion.

Q19: What if a family member starts a job, but continues to participate in the training program simultaneously? Since the training is not yet completed, does she qualify for the 18-month exclusion?

A19: If a family member has completed that portion of the training necessary for her to get a job, the HA policy could allow for the 18-month exclusion, which would start at the point she got the job, not after she completed the training.

Q20: To get the benefit of the exclusion, does the job acquired have to be directly related to the training?

A20: No.

Q21: Does the 5.609(c)(13) exclusion apply to individuals in the Family Self-Sufficiency Program (FSS) who have an escrow account?

A21: This exclusion applies to all public housing residents, without regard to whether a resident participates in the FSS program. The Combined Income and Rent Interim rule, issued April 5, 1995, removed the parenthetical in the former '913.106(c)(11), which indicated it did not apply to residents participating in the FSS program who are utilizing the escrow account. This means that for some families enrolled in FSS, the amount that goes into the escrow account would be decreased or eliminated for a period of time.

Q22: Are amounts received from resident-owned businesses or professions considered "earnings"?

A22: Yes, but a HA must be careful to consider only the net income from the operation of a business or profession. As a general rule, this means taking all gross self-employment income and then excluding the cost of producing the self-employment income.

Q23: If a public housing tenant, who is on the waiting list for Section 8, is having incremental earnings excluded in determining her public housing rent, would these incremental earnings also be excluded for purposes of determining her eligibility for Section 8?

A23: Yes, but under the provisions of 5.609(c)(8)(v), not (c)(13), since (c)(13) does not apply to Section 8. Therefore, the exclusion would apply, for Section 8 eligibility purposes, only during the training period, not for the 18 months after she begins her first job.

Q24: If a tenant is enrolled in a training program funded by HUD, is the training income treated differently than the income from training programs covered by 5.609(c)(8)(v) and (c)(13)?

A24: Yes. The provision at 5.609(c)(8)(i) excludes the full amount received under training programs funded by HUD. If it is a HUD-funded training program, we exclude the FULL amount, not just the incremental amount. This exclusion stops at the end of the training period.

Q25: What is a training program funded by HUD?

A25: It must be a bona fide training program, generally meeting the definition in Paragraph V of this notice. While an on-the-job training (OJT) program would typically qualify, the orientation a new staff member receives when hired into an organization or into a new position at an organization would not constitute a training program. The training program must be funded directly or indirectly with HUD dollars - whether those dollars are from operating subsidy, Section 8 administrative fees, or modernization, CDBG, or other grant funds.

Q26: How is the training income counted for a public housing tenant who is enrolled in an OJT program in the HA's maintenance department?

A26: Income received through a HUD-funded training program is excluded in full. Once the training is completed and the individual joins the maintenance staff, the entire amount of wages is counted as income.

Q27: If a resident organization, either alone or in collaboration with an HA, uses its HUD grant money to create an employment training program, would the income of tenants participating in that training program be excluded?

A27: Yes, as long as the training program is funded by HUD. The key point is not which organization administers the training program, but rather whether HUD dollars are funding a material portion of the program.

Q28: Once the HUD-funded training is completed, if either the HA or resident organization hires the training program graduate, is any of the employment income excluded?

A28: No. The regulation is specific that employment income funded by public housing assistance under the 1937 Housing Act will not be excluded. This means that salaries paid by HAs or resident organizations using funding received under any public housing or Section 8 programs are included as income in determining tenant rent. (But see the provision on resident service stipend at 5.609(c)(8)(iv).)

VIII. References

- 24 CFR 5.609(c)
- Combined Income and Rent Final Rule, issued 10/18/96. This rule became effective on 11/18/96. The rule was transmitted by PIH Notice 96-93 , issued 12/18/96.
- Combined Income and Rent Interim Rule, issued 4/5/95. This rule became effective on 6/5/95.

- "TOPS" Final Rule, issued 8/24/94. This rule became effective on 9/23/94.
- Federally Mandated Exclusions from Income, from the Federal Register dated 8/3/93 (58 FR 41287-41288). This Federal Register Notice was transmitted by PIH Notice PIH 93-65, issued December 13, 1993.
- Section 515(b) of the National Affordable Housing Act (NAHA) of 1990.

/s/

Kevin Emanuel Marchman
Assistant Secretary for Public

Attachments

APPENDIX 1

HUD Regulations Pertaining to Training Income Exclusions

24 CFR 5.609

1. (c)(6) - The full amount of student financial assistance paid directly to the student or the educational institution.
2. (c)(8)(i) - amounts received under training programs funded by HUD.
3. (c)(8)(ii) - amounts set aside for use under a Plan to Attain Self-Sufficiency (PASS).
4. (c)(8)(iii) - amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program.
5. (c)(8)(v) - incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident

management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program.

6. (c)(11) - earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse).
7. (c)(13) - for public housing only: (i) the earnings and benefits to any family member resulting from participation in a program providing employment training and supportive services in accordance with the Family Support Act (42 U.S.C. 1437t); or any comparable Federal, State, or local law during the exclusion period (ii) for purposes of this paragraph, the following definitions apply:
 - (A) Comparable Federal, State or local law means a program providing employment training and supportive services that:
 - (1) Is authorized by a Federal, State or local law;
 - (2) Is funded by the Federal, State or local government;
 - (3) Is operated or administered by a public agency; and
 - (4) Has as its objective to assist participants in acquiring employment skills.
 - (B) Exclusion period means the period during which the family member participates in a program described in this section, plus 18 months from the date the family member begins the first job acquired by the family member after completion of such program that is not funded by public housing assistance under the 1937 Act. If the family member is terminated from employment with good cause, the exclusion period shall end.
 - (C) Earnings and benefits means the incremental

earnings and benefits resulting from a qualifying employment training program or subsequent job.

8. (c)(17) - Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply.

The last list of Federally-Mandated Exclusions was published in the Federal Register on 8/3/93, 58 FR 41287-41288. This list excludes payments received under programs funded in whole or in part under the Job Training Partnership Act; payments to volunteers under the Domestic Volunteer Services Act of 1973; amounts of scholarships funded under Title IV of the Higher Education Act of 1965; and payments received from programs funded under Title V of the Older Americans Act of 1965. Payments received from AmeriCorps are also excluded (11/15/94 memorandum from General Counsel).

APPENDIX 2

Income Exclusions Related to Training

Comparing Section 8 with Public Housing

| SOURCE | AMOUNT EXCLUDED FOR SECTION 8 | AMOUNT EXCLUDED FOR PUBLIC HOUSING |
|--|-------------------------------|------------------------------------|
| 5.609(c)(6) - Student Financial Assistance | All | All |
| 5.609(c)(8)(i) - Training Programs Funded By HUD (e.g., PFS, Sec. 8 Admin. Fee, Development and Modernization, CDBG) | All | All |
| 5.609(c)(8)(ii) - Amounts set aside in SSI's "Plan to Attain Self-Sufficiency" (PASS) | All | All |

5.069(c)(8)(iii) - Publicly Assisted Program Reimbursement of out-of-pocket expenses incurred All All

5.609(c)(8)(v) - State or Incremental (and only for local employment training program -must have clearly defined goals and objectives participation in the employment training program) Incremental (and only for local employment training program) participation in the employment training program)

SOURCE EXCLUDE FOR SECTION 8 EXCLUDE FOR PUBLIC HOUSING

5.609(c)(11) - Earnings of Full Time Students of age or order (excluding head of household and spouse) Amounts in excess of \$480 Amounts in excess of \$480

5.609(c)(13) - A training program providing employment training and supportive services in accordance with the Family Support Act or any comparable Federal, State, or local law
- Authorized/funded by Fed/State/Local law
- Operated or administered by public agency
- Objective is to assist participants in acquiring employment skills N/A Incremental increase during training program plus 18 months from date of 1st job after completion of the training program that is not funded by public assistance under 1937 Act

5.609(c)(17) - Amounts excluded by any other Federal statute, e.g., payments received under:
- JTPA (in whole or in part)
- Domestic Volunteer Services Act of 1973
- Title V of the Older Americans Act of 1965
- AmeriCorps All All

APPENDIX 3

Income Exclusions Related to Training

Comparing Two Regulatory Exclusions

The regulatory citation 24 CFR 5.609(c)(8)(v) 24 CFR 5.609(c)(13)

The housing programs for which this exclusion is applicable Applies to PH & Section 8 Applies only to PH

Type of program Employment training program Employment training and supportive services program

Who provides the program State or local (not necessarily government) Provided under Federal, State or local law, funded by government, administered by a public agency

Characteristics of the program Must have clearly defined goals and objectives Has as its objective to assist participants in acquiring employment skills

What income is excluded Incremental earnings & benefits Incremental earnings

Period of time for which exclusion applies Applies during training period Applies during training period and for 18 mos. from the date the family member begins the first job acquired after completion of the program

Exceptions NA The exclusion does not apply to jobs funded by public housing

assistance under
the 1937 Act

APPENDIX 4

Optional Earned Income Exclusions and Deductions

(for Public Housing only)

A. Optional Earned Income Exclusions

The Optional Earned Income Exclusions Interim Rule, effective 9/30/96, allows HAs to amend HUD's definition of annual income (61 FR 46344) to encourage them to take action to further the efforts of applicants and tenants to seek employment and increase their earned income. The rule permits HAs to adopt exclusions for earned income pursuant to an established written policy. Any exclusions permitted may not be deducted in determining adjusted income. A final rule, issued 5/5/97 and effective 6/4/97, made no substantive changes to the interim rule. See paragraph C below for a discussion of the impact on operating subsidy.

B. Optional Earned Income Deductions

Section 402(c) of the Balanced Budget Downpayment Act I (Continuing Resolution), which became law on 1/26/96, (described in HUD Notice PIH 96-6, issued 2/13/96), permitted HAs to adopt optional earned income deductions in determining adjusted income. This provision has been extended by the FY 1998 Appropriations Act. HAs may establish other deductions to earned income, in addition to those defined in Section 3(b)(5) of the U.S. Housing Act of 1937, in accordance with the Section 402(c) provisions. See paragraph C below for a discussion of the impact on operating subsidy.

C. Impact of Optional Earned Income Exclusions/Deductions on Operating Subsidies

Reference: Public and Indian Housing Performance Funding System: Incentives; Interim Rule, published 9/30/96, (61 FR 51178). The PFS Operating Subsidy will not increase to cover the amount of rental income reductions resulting from these exclusions/deductions, but will allow an HA that achieves net increases in rents from earned income to have an incentive increase in subsidy up to an amount equal to the PFS operating subsidy shortfall.