



**U.S. Department of Housing and Urban Development
Public and Indian Housing**

Special Attention of:
Office Directors of Public Housing;
Regional Directors; Public Housing
Agencies.

Notice PIH 2006-5 (HA)

Issued: January 13, 2006

Expires: January 31, 2007

Cross References:

**SUBJECT: Implementation of the 2006 HUD Appropriations Act (Public Law 109-115)
Funding Provisions for the Housing Choice Voucher Program**

1. **Purpose.** This Notice implements the Housing Choice Voucher (HCV) program funding provisions resulting from enactment of the Federal Fiscal Year (FFY) 2006 HUD Appropriations Act (Public Law 109-115) that was signed into law on November 30, 2005. In this law, Congress continues the 2005 allocation method for calculating and distributing housing assistance payments (HAP) renewal funds, public housing agency (PHA) administrative fees, and continues to prohibit the use of renewal funds for over-leasing. The Act specifies that calendar year (CY) 2006 will be the funding period for such renewals and administrative fees under the HCV program. The requirements of this Act supersede any other Notice or regulation to the extent that such Notice or regulation is inconsistent with the Act. Additionally, this Notice provides that any budget authority provided to PHAs in CY 2006 that exceeds actual program expenses for the same period must be maintained in the PHA's undesignated fund balance account in accordance with Generally Accepted Accounting Principles (GAAP). Please reference Notice PIH 2006-3 (HA) issued January 11, 2006, for further details.
2. **Background.** In HUD's FFY 2005 Appropriations Act (Public Law 108-447), Congress enacted changes in the HCV program by funding each PHA based on leasing and costs as of May, June and July 2004 adjusted for inflation. In HUD's FFY 2006 Appropriations Act, Congress directs the Department to provide funds to PHAs based on the amounts PHAs were eligible to receive in FFY 2005 as calculated by HUD before any pro rata reductions and to adjust those amounts for inflation by applying the 2006 Annual Adjustment Factors (AAFs).
3. **Calculation of CY 2006 Allocations.** Allocations for renewal funding will be based on the following process:
 - A. The baseline will be established at the CY 2005 renewal amount provided to PHAs in their funding letters dated January 21, 2005.
 - B. This baseline amount will be adjusted to reflect the transfer of vouchers between PHAs, allocations of new vouchers for tenant protection actions awarded to PHAs on

or after the CY 2005 baseline was established, and partial year new voucher allocations awarded in prior years. Tenant protection actions include housing conversion (which also includes replacement vouchers for Section 8 Moderate Rehabilitation units) and demolition and disposition of public housing units.

- C. HUD will make necessary adjustments for tenant protection voucher costs that were higher than normal based on data in the Public Housing Information Center (PIC). Only those Family Reports (Form HUD-50058) that were coded properly were included in the adjustments. Family Reports for enhanced vouchers had to have been checked in the appropriate box on line 2m with an amount of 0 or more on line 9i. HOPE VI and non-HOPE VI vouchers related to public housing demolition or disposition must have been coded with PHRR on line 2n to be counted.
- D. No adjustments will be made for voucher units that were not in use during the twelve months of CY 2005 because they were made available to meet a commitment pursuant to section 8(o)(13) (project-based voucher assistance) of the U. S. Housing Act of 1937, as these units were not excluded from the calculation for renewal funding in the CY 2005 baseline.
- E. The HUD-published AAFs for 2006 will then be applied to the PHA's twelve-month renewal allocation to be calculated as described above.
- F. HUD will determine the total amount needed to fund all PHAs, compare that amount to the total amount appropriated in FY 2006 for renewals, and will prorate each PHA's CY 2006 allocation accordingly.

4. Annual Adjustment Factors. The specific AAFs that HUD will use pursuant to Congress' direction to reflect inflation can be found at HUD's website at: <http://www.hud.gov/offices/pih/programs/hcv/>. The higher of the two AAF values will be applied.

The FFY 2006 AAFs are the first to utilize new Office of Management and Budget metropolitan area definitions that contained a number of significant changes in how metropolitan areas are defined and which counties are in or outside of these metropolitan areas. HUD is publishing separate AAFs for each metropolitan area with its own local Consumer Price Index (CPI) survey. For other areas, the FFY 2006 AAFs were updated using CPI rent change factors for the four Census Regions.

A PHA should refer to Schedule C of the FFY 2006 AAF schedule to determine if it falls within a metropolitan area covered by a local CPI survey. If so, those factors will apply. If not, the appropriate Census Regional CPI factor applies. HUD is planning to rely more heavily on the new Census Bureau American Community Survey to determine AAFs next year when more detailed local numbers should be available.

The Department will notify PHAs of their assigned AAF areas. In the event that an AAF area

was incorrectly assigned, the PHA will have an opportunity to request a change to its AAF area prior to final funding for CY 2006.

5. **\$45 million to Adjust PHA Baselines.** The 2006 Act provided that up to \$45 million shall be available only: (1) to adjust allocations for CY 2005 renewal funding that was based on verified VMS leasing and cost data averaged for the months of May, June and July of 2004 which, solely because of temporarily low leasing levels during such three month period, did not accurately reflect leasing levels and costs for the PHA's 2004 Fiscal Year (FY); and (2) to adjust allocations for PHAs that experienced a significant increase, as determined by the Secretary, in renewal costs resulting from unforeseen circumstances or from portability under section 8(r) of the United States Housing Act of 1937. HUD will process requests first under the first proviso and, once funded, will move to adjustments pursuant to the second proviso.

To be eligible for consideration of funds under category (1) and/or (2), the PHA must complete Attachment A and submit it to the Department at the address below:

U. S. Department of Housing and Urban Development
Attn: David A. Vargas
Room 4226
451 7th Street SW
Washington, DC 20419

The PHA's request must be received no later than close of business (5:00 p.m. EST) Tuesday, **January 31, 2006**. The request must be sent using overnight mail (USPS, UPS, Fed Ex, DHL, etc) that requires signature upon delivery. Standard delivery mail will not be accepted.

No additional data will be required or considered under category (1) or portability under category (2). The Department will use VMS and HUDCAPS data only for verification. However, unforeseen circumstances must be substantiated with sufficient evidence for a HUD analyst to determine that the VMS data for May, June and July 2004 did not accurately reflect leasing costs for the PHA's 2004 FY.

Also, PHAs may not request a revision to the May, June and July of 2004 VMS data as this information was previously validated by HUD.

6. **Funding for Administrative Costs.** For CY 2006, \$1,250,000,000 (adjusted by necessary across the board reductions) is available to fund PHA expenses related to the administration of the HCV program. Of this amount, up to \$10,000,000 will be available to PHAs that need additional funds to administer this program as detailed below.

- a. **Ongoing Administrative Fees.** \$1,240,000,000 will be allocated for CY 2006 on a pro rata basis based on the amount that the PHA was eligible to receive in CY 2005 as provided in the January 21, 2005, funding letter and adjusted for any new units not

included in the 2005 baseline. PHAs will be provided an opportunity to review the changes to their baseline for CY 2006 prior to final funding determinations.

- b. **Homeownership Fees.** Of the \$10 million set-aside, HUD will distribute \$2 million in additional administrative fees to support homeownership voucher program closings only. A one-time fee of \$1,000 will be paid for each homeownership closing during CY 2006 reported in PIC for a family participating in the homeownership voucher program, Section 8 Family Self-Sufficiency (FSS) program or the Moving to Work (MTW) program. The one-time \$5,000 fee for implementing a homeownership program cannot be funded in CY 2006.
- c. **Tenant Protection Fees.** The remaining \$8 million, until depleted, will be used to provide administrative fee funding for vouchers related to tenant protection actions. HAP and administrative fee funding will only be provided for occupied units in the affected project at the time of the PHA's application for such voucher funding. There will be a one-time fee of \$100 per tenant protection voucher related to housing conversion actions in CY 2006.

d. Other Provisions.

- i. **Administrative Fees for Development Activities.** The 2006 Appropriations Act stipulated that administrative fees provided from this appropriation shall only be used for activities related to the provision of section 8 tenant-based rental assistance, including related development activities. Examples of related development activities include, but are not limited to, unit modification for accessibility purposes and development of project-based voucher units. Any administrative fees from 2006 funding (as well as 2004 and 2005 funding) that are subsequently moved into the undesignated fund balance account in accordance with GAAP at year-end must only be used for the same purpose.
- ii. **Restrictions.** Please note that if the PHA has not adequately administered its HCV program, HUD may prohibit use of funds in the Net Cumulative Administrative Fee Equity account and may direct the PHA to use funds in that account to improve administration of the program or to reimburse ineligible expenses in accordance with the regulation at 24 CFR 982.155(b)(3)

There will be no other special fees in CY 2006.

- 7. **Over-Leasing.** The 2006 Appropriations Act prohibits the use of amounts provided for renewal funding from being used by any PHA for over-leasing. Given the CY 2006 funding cycle for renewals in the Act, over-leasing is defined as unit months leased in excess of unit months available for authorized baseline units as of the end of CY 2006.

If a PHA engages in over-leasing, it must identify other sources to pay for the over-leasing, or the PHA must take immediate steps to eliminate any current over-leasing. PHAs should consult with their Public Housing field office staff for assistance in determining needed actions. HUD has no authority to provide funds to support unit months leased in excess of the PHA's baseline units under ACC and will not do so.

Furthermore, the Department will continue to deploy Quality Assurance (QA) teams to conduct on-site reviews of PHAs to ensure the integrity of PHA-reported data for the HCV program, as well as to ensure compliance with other program requirements, including over-leasing. QA staff will also review compliance with rent reasonableness requirements to ensure that owners are receiving rents that are comparable to similar unassisted units in the market. All 2005 and 2006 renewal allocations are subject to reduction if a QA review warrants such a reduction.

8. PHA Requirements.

- A. PHAs must continue to submit required financial documents including, but not limited to, quarterly VMS electronic submissions. PHAs will receive equal monthly disbursements based on their budgetary allocations from HUD on a CY basis. PHAs have the ability to request adjustments to monthly disbursements, not to exceed their annual budgetary allocations, by contacting their financial analyst at the Financial Management Center (FMC).
- B. PHAs must manage their programs in a prudent manner to enable them to serve families within their CY 2006 allocations and voucher baselines. PHAs should review their policies and operations to ensure they are not incurring costs beyond what is needed to support decent housing of a modest nature within market rents for HCV participants.
- C. The 2006 Appropriations Act provides that incremental vouchers under the One-Year and Five-Year Mainstream programs previously made available for non-elderly disabled families shall, to the extent practicable, continue to be provided to non-elderly disabled families upon turnover. Please reference Notice PIH 2005-5 (HA) for further details.
- D. The 2006 Appropriations Act provides that incremental vouchers previously made available for family unification shall, to the extent practicable, continue to be provided for family unification.
- E. PHAs that fail to meet the above requirements will be subject to administrative actions including, but not limited to, a reduction or withholding of administrative fees.
- F. PHAs must continue to submit financial data electronically to the Real Estate Assessment Center (REAC). For the HCV program, PHAs with fiscal years ending on or after September 30, 2006, the Financial Data Schedule (FDS) will include two memo accounts called Net Cumulative Administrative Fees Equity and Net Cumulative HAP Equity, which must be filled out by the PHA as part of the FDS submission. Further instructions will be provided by REAC. PHAs with fiscal years ending on or after January 1, 2006, but before September 30, 2006, will be expected to maintain this information as part of

their internal records.

9. **Excluded Programs.** The changes implemented by this Notice do not apply to renewal funding for the Section 8 Moderate Rehabilitation Program or Five-Year Mainstream vouchers.
10. **MTW.** MTW agencies will continue to have their funding determined pursuant to their MTW agreements. HUD is directed by the Act, however, to apply the same pro-ration factor to the HCV budgets for MTW agencies as is applied to all other PHAs.
11. **CY 2006 Funding Allocations.** The Department will issue each PHA a letter regarding its draft CY 2006 renewal funding prior to issuance of final funding allocations. Instructions will be provided regarding any applicable adjustments.

The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1955 (44 U.S.C. 3501-3520) and assigned OMB control number 2577-0169. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

Any questions concerning this Notice should be directed to the Housing Voucher Financial Management Division, Office of Public Housing and Voucher Programs, at (202) 708-2934 (this is not a toll-free number).

Orlando Cabrera, Assistant Secretary
for Public and Indian Housing

ATTACHMENT A

Name of PHA:
PHA Number:
Executive Director:

CHECK ALL BOXES THAT APPLY

☐ Category (1): I certify that due to temporary low leasing levels during the months of May, June and July 2004, data from the Voucher Management System (VMS) did not accurately reflect leasing levels and costs for the PHA's 2004 fiscal year that ended _____.

Category (2)

☐ (a) I certify that due to portability expenses, the VMS data for May, June and July 2004, did not accurately reflect leasing costs for the PHA's 2004 fiscal year that ended_____.

☐ (b) I certify that there were unforeseen circumstances that are substantiated below with sufficient evidence for a HUD analyst to determine that the VMS data for May, June and July 2004, did not accurately reflect leasing costs for the PHA's 2004 fiscal year that ended_____.

Attach evidence of unforeseen circumstances.

Certification: I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3279, 3802)

Signature of Executive Director and Date

Contact Name and Phone Number