



**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 2009 -13 (HA)

Issued: May 6, 2009

Expires: May 31, 2010

Cross References:

SUBJECT: Implementation of the Federal Fiscal Year 2009 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 “Omnibus Appropriations Act, 2009” (Public Law 111-8), referred to hereinafter as “the 2009 Act,” enacted on March 11, 2009. The 2009 Act establishes the allocation methodology for calculating housing assistance payments (HAP) renewal funds, new incremental vouchers and administrative fees.
2. **Background.** In Federal Fiscal Year (FFY) 2007, the Revised Continuing Appropriations Resolution, 2007 (Revised CR 2007) (Public Law 110-5), enacted on February 15, 2007, established a new methodology for HAP renewal funding for the calendar year (CY) 2007 funding cycle. This new methodology required using the Voucher Management System (VMS) leasing and cost data for the most recently completed period of 12 consecutive months for which the Secretary determined the data to be verifiable and complete, prior to pro rations, and by applying the 2007 Annual Adjustment Factor (AAF) as established by the Secretary, and by making any necessary adjustments for the costs associated with the first-time renewal of tenant protection or HOPE VI vouchers or vouchers that were not in use during the 12-month period in order to be available to meet a commitment pursuant to section 8(o)(13) of the Act. This renewal methodology is commonly referred to as re-benchmarking. The 2008 Appropriations Act continued this methodology of re-benchmarking using a new baseline period (FFY 2007) for calculation of HAP renewal funding for CY 2008. The 2009 Act also continues this methodology and establishes a new re-benchmarking period (FFY 2008) as described below.
3. **Calculation of CY 2009 HAP Funding Allocations:**

The 2009 Appropriations Act requires that HUD utilize a re-benchmarking renewal formula based on leasing and cost data for the 2008 Federal Fiscal Year. The renewal provisions in the Act are stated in Appendix A. HUD will provide renewal funding as follows:

- A. A new HAP funding baseline will be established based on validated leasing and HAP cost data (capped at the total units month available) in VMS for FFY 2008, the

period of October 1, 2007 through September 30, 2008.

- B. The funding baseline will be increased to provide funds for the first time renewal of certain vouchers as identified in Appendix B, awarded to PHAs effective August 1, 2007 and later and expiring before December 31, 2009 as the HAP costs for those vouchers may not be fully reflected in VMS. HUD will adjust funding for these vouchers to ensure voucher funding is provided for 12 months during CY 2009. For purposes of making the adjustment, HUD will assume that the vouchers are leased 90 days after the effective date of the increment and are reflected in VMS from that point forward. For those periods not covered by the original funding award and not included in VMS, HUD will fund the higher of the per unit amount initially funded or the validated per unit VMS amount. The following is a hypothetical example of an increment awarded in CY 2008 which will expire in CY2009:

New Increment Effective Date:	April 1, 2008
New Increment Expiration Date:	March 31, 2009
Number of Units:	75
Budget Authority (BA):	\$472,500
Per Unit BA:	\$525
(BA divided by 75 units and divided by 12 months)	
Average FFY 2007 VMS per Unit Cost:	\$480

Funding in 2009:	Months
1. January through March of 2009 from the original BA;	3
2. Leasing and costs assumed in VMS beginning July 1, 2008 (90 days after effective date) through September 2008;	3
3. 2009 Adjustment for remaining months funded at higher of original per unit BA or average PUC from VMS baseline; in this example. (They are funded at \$525 per unit per month, for 75 units)	6
Total months funded in 2009.	<hr/> 12

- C. Adjustment for costs associated with deposits to family self-sufficiency (FSS) program escrow accounts will be calculated based on the number of new FSS participants with progress reports in PIC for the period October 1, 2008 through March 31, 2009 (representing a 6 month period) multiplied by two (for a total of 12 months) then multiplied by the average monthly escrow deposit in PIC (assumes escrows for the re-benchmarking period are already included in the baseline as they are reported in VMS).
- D. The HUD-published AAF for 2009 will be applied to the PHA's calculated twelve month renewal requirement after all adjustments have been applied. The specific AAF 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

AAF, from Table 1, that includes the highest cost utility will be applied. The AAF will be adjusted upward by a factor of 25 percent, to reflect the time lag between the end of the re-benchmarking period (October 1, 2008) and the beginning of CY 2009.

- E. This baseline amount will be increased or decreased respectively to reflect the transfer of vouchers to or from the PHA, to ensure the costs represented by transferred vouchers are included in the eligibility of the receiving PHA.
- F. HUD will determine the total eligibility for all PHAs, compare that amount to the total FY 2009 appropriation available for renewals, and will prorate each PHA's CY 2009 eligibility.
- G. In accordance with the 2009 Act (see Appendix B for Appropriations Act text), HUD will reduce the total pro-rated nationwide eligibility by \$750,000,000 by offsetting each PHA's CY 2009 allocation by a portion of that PHA's Net Restricted Assets (NRA) balance in accordance with VMS data for calendar year 2008. HUD will utilize the most recent NRA balance (December 31, 2008) when calculating the offsets from PHAs. Note that, by law, this calculation cannot take into account any reduction in NRA balances by PHAs after December 31, 2008.

For Moving to Work (MTW) agencies, this offset only applies to HCV funds attributable to vouchers that are not covered by the MTW agreement, or as provided specifically in a PHA's agreement.

The offset for each PHA will be based on the following provisions; these provisions rely on the definitions of usable NRA and unusable NRA that follow:

- No offset will be applied to any PHA whose baseline vouchers numbered 250 or fewer in CY 2008;
- If a PHA's leasing rate and utilization rate for CY 2008 were less than 88 percent of vouchers and budget authority available, all unusable NRA and one-half of usable NRA will be offset;
- If a PHA's leasing or utilization rate for CY 2008 was 88 percent or more of vouchers or budget authority available, but less than 96 percent unusable NRA will be offset to the extent that it exceeds 2.5 percent of the PHA's CY 2008 pro-rated renewal eligibility and 40 percent of usable NRA will be offset.
- If a PHA's leasing or utilization rate for CY2008 was 96 percent or higher, unusable NRA will be offset to the extent that it exceeds 4.5 percent of the PHA's CY2008 pro-rated renewal eligibility and 35 percent of usable NRA will be offset.

- The Department will make adjustments to ensure that NRA is not offset to the extent it is required to maintain leasing and costs as of December 31, 2008, not to exceed baseline leasing.
- If these procedures do not yield a total of \$750,000,000 in offsets, additional amounts will be offset in equal proportion from PHAs with total remaining excess NRA balances.
- Although the funds for the HUD-Veteran's Affairs Supportive Housing Program (HUD-VASH) were fully obligated in April of 2008, the program was not fully operation until later in the year. Therefore, HUD will not take into account any funds awarded under the HUD-VASH program in 2008 for purposes of the offset.

Definitions:

- **Usable NRA** is that amount of the total that would be required to enable the PHA to reach 100 percent utilization of baseline unit months; it is calculated as the average per unit cost for CY 2008 multiplied by the number of unleased unit months for the year.
 - **Unusable NRA** this amount is calculated as the difference between the total NRA and usable NRA.
4. **Net Restricted Assets (HAP Equity):** By letter of January 29, 2009, PHAs were advised to review all data currently in VMS for the period of January 1, 2005 through December 31, 2008. PHAs were advised that this review was the final opportunity to update VMS data before it was used for any funding or NRA purposes in CY 2009. PHAs will be advised of the calculated balance in their Net Restricted Assets account as of December 31, 2008, the useable and unusable portions, and the impact on the calculation of any offset to be applied to the renewal funding awarded for CY2009. The calculations will include any validated and approved changes to VMS data for the period of January 1, 2005 through December 31, 2008 that affect the NRA balances. These calculations will be provided with the CY 2009 allocation letters.

PHAs are advised that VMS data for the period 2005 through 2007 that each PHA confirmed through this process will not be updated in CY 2009 or in the future for purposes of funding or NRA calculations except as determined necessary by HUD (for example, Quality Assurance Division VMS reviews and/or audits).

5. **Set-Aside of up to \$100 million to Adjust PHA Allocations:**

The 2009 Act provides that up to \$100 million shall be available only: (1) to adjust the allocations for public housing agencies, after application for an adjustment by a public housing agency that experienced a significant increase, as determined by the Secretary, in renewal costs of tenant-based rental assistance resulting from unforeseen circumstances or from portability under section 8(r) of the Act; (2) for adjustment for public housing agencies with voucher leasing rates at the end of the calendar year that exceed the average leasing for the 12-month period used to establish the allocation; (3) for adjustments for the costs

associated with Veteran's Administration Supportive Housing (VASH) vouchers; and (4) for vouchers that were not in use during the 12-month period in order to be available to meet a commitment pursuant to section 8(o)13 (project-based voucher assistance) of the Act.

The Department will review the latest NRA balance, after the application of the mandatory offsets from the renewal funding, for each applicant agency to determine if the requested set-aside funds are needed. Additionally, if eligible requests exceed the funding available, all awards for all categories will be subject to proration. Set-aside funds may not be granted for any purposes other than those cited above. Calculations and funding will be determined by HUD for all eligible agencies, including eligible Moving to Work (MTW) agencies. For all eligible categories, the application deadline is **May 22, 2009**. Submission requirements are described below.

A. Category (1) eligibility provides for adjustments for PHAs that experienced a significant increase in renewal costs from unforeseen circumstances. To be eligible for funding under this category, the unforeseen circumstances must be substantiated with sufficient evidence for a HUD analyst to justify approval and determine a funding amount under this category. This evidence must be submitted by the deadline date, along with the completed and signed Attachment A to this Notice. HUD reserves the right to request additional information if necessary.

For Category (1), PHAs are required to submit documentation to support a request for funding adjustments. The following are some non-exclusive examples of unforeseen circumstances:

- PHAs whose jurisdiction and tenants had experienced a severe loss of employment/income.
- PHAs that were required by a court to take actions that increased their per unit costs.
- PHAs that have experienced significant increases in the cost of assistance due to an unforeseeable rise in rental costs.
- PHAs directed by HUD not to lease vouchers provided as a result of a housing conversion action, and in place during the baseline period, that were later required to lease those held vouchers.

B. Category (1) eligibility also provides for adjustments for PHAs that experienced an increase in renewal costs from portability under Section 8(r) of the Act for tenant-based rental assistance. Renewal costs for portability will be based upon PIC reporting of portable vouchers being billed to each PHA and the average cost of those vouchers as compared to the PHA's CY 2009 funded rate, which is the FFY 2008 average HAP costs adjusted via the 2009 AAF. The Department will calculate eligibility under this category, therefore, no additional documentation will be required or accepted other than Attachment A, which must be completed, signed and submitted by the deadline date.

C. Category (2) eligibility for adjustment for public housing agencies with voucher leasing rates at the end of the calendar year that exceed the average leasing for the 12-month period used to establish the allocation. To determine eligibility under this

category, the Department will compare the PHA's leasing from VMS, at the **higher** of the unit months leased in December 2008 or the average unit months leased in October through December 2008 to the average of the 12 months of FFY 2008. The Department will then calculate the number of unit months the PHA would be able to lease based on the CY 2009 re-benchmarking funding allocation. If the difference is a decrease of 3 percent or more in the number of unit months the PHA would be able to lease in CY 2009 using the level of funding provided under the re-benchmarking funding allocation, the PHA will be eligible for funding under this category. The Department will calculate eligibility under this category, therefore, no additional documentation will be required or accepted other than Attachment A, which must be completed, signed and submitted by the deadline date.

D. Category (3) provides for adjustments for the costs associated with Veteran's Administration Supportive Housing (VASH) vouchers. To be eligible for funding under this category, the PHA must submit evidence of anticipated VASH costs for CY 2009 which will exceed the CY2009 VASH funding and the PHA's available VASH NRA. A request under this category must be substantiated with sufficient evidence for a HUD analyst to justify approval and determine a funding amount under this category. This evidence, along with the completed and signed Attachment A, must be submitted by the deadline date.

E. Category (4) provides for adjustments for vouchers that were not in use during the 12-month period in order to be available to meet a commitment for project-based voucher assistance under section 8(o) 13 of the Act. Adjustments will apply only to vouchers withheld pursuant to a project based voucher commitment for newly constructed or rehabilitated housing. Adjustments will **not** apply to existing housing as there is no waiting period for existing housing project based voucher commitments; therefore, there is no need to withhold vouchers. For each project based voucher commitment for which a request is being made under this category, the PHA must provide an executed Agreement to Enter into a HAP Contract (AHAP), in its entirety **including all exhibits**. If the Housing Assistance Payments (HAP) Contract has been executed by the time of the submission of this request for adjustment, the executed HAP Contract, in its entirety **including all exhibits**, must also be submitted or the PHA must state that the HAP Contract has not yet been executed. These documents, along with the completed and signed Attachment A, and the completed and signed Attachment B (for every project based commitment) must be submitted by the deadline date.

Documentation requirements for each category are provided on Attachment A (and above) to this Notice. PHAs are advised to provide, where applicable, the appropriate supporting documentation along with the completed/signed Attachment A and Attachment B, where applicable, by the deadline date established below.

Submission Requirements:

To be eligible for consideration of funds under category (1) (2), (3) and/or (4), the PHA must complete Attachment A, and Attachment B where applicable, to this Notice -- Application for the \$100 Million Set-Aside -- (by marking the applicable category (1), (2), (3)) and/or (4);

provide the documentation identified on Attachment A; and must ensure signature by the appropriate PHA official) and submit it to the Department at the address below:

U.S. Department of Housing and Urban Development
 Office of Housing Voucher Programs
 Attn: Miguel A. Fontanez Sanchez, Director, Financial Management Division
 Room 4232
 451 7th Street, S.W.
 Washington, DC 20410

The PHA's request must be received at the above address no later than close of business (5:00 p.m. EDT), **May 22, 2009**.

It is recommended that requests be sent using overnight mail (USPS, UPS, Fed Ex, DHL, etc.) that requires signature upon delivery. **Hand-delivered or standard delivery mail will be accepted; however, it is important to note that non-expedited mail has no guaranteed delivery time and is subject to the Department's security screening, which can delay delivery. Requests will only be accepted at the above location; delivery to other locations will not be accepted.** Requests not received on time will not be processed. Faxes and electronic submissions **will not** be accepted.

6. **Number of Replacement Vouchers to be Provided for Certain Actions:** HUD will provide replacement vouchers for **all** units that were occupied within the previous 24 months that cease to be available as assisted housing, subject only to the availability of funds (See Appendix B, "Tenant Protection" provision for Appropriations text).

Housing Conversion Actions. The administering PHA is eligible to receive vouchers for the number of units covered by the Housing Conversion Action that were occupied by an assisted family at any time within the previous 24 months from the eligibility event as determined by HUD's Office of Multifamily Housing. The eligibility event for each category of Housing Conversion Action is as follows:

- Prepayments: The effective date of the prepayment of the mortgage or the voluntary termination of the mortgage insurance.
- Opt-outs: The effective date of the expiration of the project-based contract.
- Terminations: The effective date of the contract termination.

Public Housing. For public housing, PHAs are eligible to receive vouchers for the number of units that:

- (1) will cease to be available as assisted housing as a result of the approved demolition, disposition, or conversion action, and
- (2) were occupied by a public housing resident within the previous 24 months from the date of HUD approval of the PHA demolition/disposition application, or

the HOPE VI revitalization plan or conversion plan that contains the demolition or disposition approval, as applicable.

Moderate Rehabilitation (MR) and Single Room Occupancy (SRO) Replacements.

PHAs are eligible to receive vouchers for the number of units occupied within 24 months of the effective date of the expiration of the MR or SRO contract or the effective date of the MR or SRO contract termination.

7. **Over-leasing.** The 2009 Act continues to prohibit the use of appropriated funds by any PHA for over-leasing. Over-leasing occurs when a PHA has more unit months under HAP contract for the calendar year than are available under its Annual Contributions Contract baseline, even if the PHA has sufficient Budget Authority and/or NRA funds to support the additional unit months. Although a PHA may not over-lease its HCV units, it is also not required to lease up to its authorized baseline if it does not have the funding to do so. 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.

If a PHA engages in over-leasing, it must identify other sources to pay for the over-leasing, and the PHA must take immediate steps to eliminate any current over-leasing.

8. **Funding for Administrative Costs**

The 2009 Appropriations Act provides \$1,500,000,000 for administrative fees to PHAs administering the voucher program (See Appendix C for full Appropriations text).

A) On-going Administrative Fees and Administrative Fees for New Vouchers.

Since on-going administrative fees and administrative fees for new vouchers will be paid based on leasing, approximately **\$1,445,000,000** of the appropriated amount will be provided for these fees. These administrative fees will be calculated for CY 2009 as provided for by section 8 (q) of the United States Housing Act as in effect immediately before the enactment of the Quality Housing and Work Responsibility Act (QHWRA) of 1998 (Public Law 105-276). Under this calculation, PHAs will be paid a fee for each voucher that is under HAP contract as of the first day of each month. Administrative fees for incremental vouchers will also be paid based on leasing.

In order to stay within the appropriated amount, the Department will pro-rate monthly disbursements based on prior leasing activity. The Department has developed and posted administrative fee rates for each PHA, to enable PHAs to calculate potential fee eligibility. Fee rates can be found at

<http://www.hud.gov/offices/pih/programs/hcv/adminfees2009.cfm>.

Each PHA's administrative fee eligibility will be reconciled to estimates and pro-rations every month with a final reconciliation completed after December 2009 leasing data is reported by PHAs in VMS. PHAs have received administrative fee advances for the early months of CY 2009. These advances were based on fee disbursements for December 2008. A PHA should not assume that the amounts advanced in the early months of the year will approximate the amounts across the year.

1. **Blended Rate Administrative Fees:** PHAs serving multiple admin fee areas may, in lieu of the fee determined for their agency, request a blended rate, based on the actual location of their assisted units. PHAs must submit the request to the Financial Management Division, Housing Choice Voucher Program, in writing to the address cited in Section 5 no later than **May 22, 2009**, if they are requesting a blended rate. The blended rate will be used for the entire calendar year.

2. **Higher Administrative Fee Rates:** Section 8(q) pre-QHWRA administrative fee provisions authorizes HUD to provide the opportunity for PHAs to request higher administrative fees for a small program, defined as fewer than 250 units, or if an agency operates over a large geographic area, defined as multiple counties. To request higher fees, an agency must submit the following financial documentation to the PHA's assigned Financial Analyst at the Financial Management Center (FMC):
 - Actual Administrative Fee Equity balance as of December 31, 2008;
 - Actual administrative costs for the HCV program for CY 2008, in sufficient detail for HUD review;
 - The PHA's CY2009 HCV program administrative budget for the voucher program, identifying anticipated reasonable and necessary administrative costs, broken out in sufficient detail to allow for review (positions and salaries, detailed travel costs, overhead and pro-rations, etc). There is no HUD form, nor a mandated format, for this budget;
 - If both the unit month and budget authority utilization in CY2008 were below 95% of available for renewal units, a statement as to why this occurred;
 - An explanation for any withdrawals from the Administrative Fee Equity account at the end of CY2006, CY2007 or during CY2008, or a statement that none were made;
 - An explanation as to why the projected CY2009 administrative fees are insufficient to cover program operating costs;
 - Certification by the chief executive of the PHA that the data is accurate.

In order to request a higher administrative fee rate, PHAs must provide the above information to their assigned Financial Analyst (FA), Financial Management Center (FMC), 2345 Grand Boulevard, Suite 1150, Kansas City, MO, 64108 no later than **May 22, 2009**.

An approved higher administrative fee rate will apply only to CY2009. At the end of the year the PHA will be required to submit evidence to the FMC of actual costs, to enable HUD to determine if the entire approved increase was needed; excess funds will be recouped by HUD.

B) Special Fees. HUD will make approximately **\$5 million** available to allocate to public housing agencies that need additional funds to administer their section 8 programs. The Department has determined that these funds, up to the amount available, may be provided for the following purposes:

- Homeownership Fees: HUD will provide funds to assist Public Housing Agencies administering Homeownership programs that have not been reimbursed the one-time \$5,000 fee bonus for implementing a new Homeownership program, and the \$1,000 special fee for homebuyers closings reported in PIC.
- Special Fees for Multifamily Housing Conversion Actions: A special (one-time) fee of \$200 will be provided for each unit **occupied** on the date of the eligibility event, for multifamily housing conversions only.
- Program Specific Audits: PHAs that are required to undergo a program-specific audit in accordance with Notice 2008-9, may receive reimbursement of excess audit costs if approved by the Department.
- Remaining Funds: Any remaining funds will be available to HUD to assist PHAs in need of additional funds to administer their Housing Choice Voucher Program.

C) Family Self-Sufficiency. The 2009 Act provides that **\$50 million** shall be made available for family self-sufficiency coordinators under section 23 of the Act. Guidance regarding the eligibility criteria and application requirements for these funds will be forthcoming.

D) Other Provisions.

- i. Administrative Fees for Development Activities. Administrative fees provided from this appropriation shall be only for activities related to the provision of tenant-based rental assistance authorized under section 8, 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.
 - ii. Restrictions. Any administrative fees from 2009 funding (as well as 2004, 2005, 2006, 2007 and 2008 funding) that are subsequently moved into the Net Unrestricted Assets Account (also known as the Administrative Fee Equity Account) in accordance with GAAP at year-end must only be used for the provision of tenant-based rental assistance authorized under section 8. If a PHA has not adequately administered its HCV program, HUD may prohibit use of funds in the Net Unrestricted Assets 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).
9. **Quality Assurance.** 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. It is each PHA's responsibility to retain the appropriate records to support their VMS submissions. VMS data is subject to review by the QAD and subsequent recalculation of funding will occur if a QAD review demonstrates that costs were

incorrectly reported, resulting in excess funding. 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.

10. **PHA Requirements.**

- A. PHAs may only use CY 2009 HAP funding for housing assistance payments, and only for CY 2009 and future CY HAP needs. PHAs may not use HAP funds or HAP NRA for section 8 administrative expenses, public housing program expenses or development costs, or any other costs of the PHA.
- B. PHAs must continue to submit required financial documents including, but not limited to, monthly VMS electronic submissions. PHAs that do not submit the required data by the reporting deadline will be sanctioned as provided by 24 CFR 982.152(d), and in accordance with the procedures outlined in PIH Notice 2008-09.
- C. PHAs will receive monthly disbursements based on their budgetary allocations from HUD on a CY basis. PHAs may request adjustments to monthly disbursements, not to exceed their annual budgetary allocations, by contacting their financial analyst at the Financial Management Center (FMC).
- D. PHAs must manage their programs in a prudent manner to enable them to serve families within their CY 2009 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.
- E. PHAs must continue to submit financial data electronically to the Financial Assessment Subsystem (FASS). The Department is aware of technical issues with FASS submissions at this time. Once the FASS system is fully operational again, PHAs that fail to meet this requirement will be subject to administrative actions including, but not limited to, an imposition of a penalty against a PHA's monthly administrative fees for failure to comply with reporting requirements until such time as the PHA complies with these requirements. This penalty represents a permanent reduction for the current calendar year that shall not be reversed; however, this will not impact the baseline calculations. Procedures are outlined in PIH Notice 2008-09.

11. **Restrictions on HAP Net Restricted Assets Account.** PHAs are reminded that funds in the HAP Net Restricted Assets account may only be used for eligible HAP needs in the current and future CYs. CY 2009 funds **may not be used to cover any prior year deficits, administrative expenses, or public housing expenses.** However, PHAs may use funds in the Administrative Fee Equity account (formerly referred to as admin fee reserves) for prior year HCV program deficits and for administrative expenses of the HCV program.

In instances where a PHA is found to have misappropriated HAP and/or NRA funds by using the funds for any purpose other than valid HAP expenses for units up to the baseline, HUD requires an immediate return of the funds to the HAP or NRA account. HUD can take action against a PHA or any party that has used HAP funds and/or the NRA account for non-HAP purposes.

12. **Excluded Programs.** The changes implemented by this Notice do not apply to renewal funding for the Section 8 Moderate Rehabilitation Program, Five Year Mainstream Program, nor do they apply to the Disaster Housing Assistance Payments (DHAP) to HCV conversion vouchers.
13. **MTW.** MTW agencies will continue to have their funding determined pursuant to their MTW agreements. Note that MTW agencies may utilize section 8 funds for section 9 purposes in accordance with their agreements. HUD is directed by the Act, however, to apply the same pro-ratio factor to the HCV allocations for MTW agencies as is applied to all other PHAs.
14. **Renewal of VASH Vouchers Awarded from FFY 2008 Appropriations:** VASH vouchers awarded in FFY 2008 were separately funded; therefore VASH units will be renewed separately from the non-VASH vouchers in a PHA's program.
15. **Incremental Vouchers.** The 2009 Act provides funding for incremental vouchers for the Family Unification Program, Veterans Affairs Supported Housing and for nonelderly disabled families, in the amounts of \$20 million, \$75 million, and \$30 million, respectively. As specifically required by the 2009 Act, incremental vouchers provided under the 2009 Act in these categories must continue to remain available for the intended populations (family unification families, homeless veterans and nonelderly disabled families, respectively) upon turnover. Further guidance on the application process for these vouchers will be issued separately.

Paperwork Reduction Act.

The additional information collection requirements contained in this document are approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). The OMB control number is 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). Persons with hearing or speech impairments may access these numbers via TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

/s/

Paula O. Blunt, General Deputy Assistant Secretary
for Public and Indian Housing

Appendix A

The 2009 Appropriations Act renewal formula provides,

“(1) \$15,034,071,000 shall be available for renewals of expiring section 8 tenant-based annual contributions contracts (including renewals of enhanced vouchers under any provision of law authorizing such assistance under section 8(t) of the Act) and including renewal of other designated housing vouchers initially funded in fiscal year 2008 (such as Family Unification, Veterans Affairs Supportive Housing Vouchers and Non-elderly Disabled Vouchers): *Provided*, That notwithstanding any other provision of law, from amounts provided under this paragraph and any carryover, the Secretary for the calendar year 2009 funding cycle shall provide renewal funding for each public housing agency based on voucher management system (VMS) leasing and cost data for the most recent Federal fiscal year and by applying the 2009 Annual Adjustment Factor as established by the Secretary, and by making any necessary adjustments for the costs associated with deposits to family self-sufficiency program escrow accounts or first-time renewals including tenant protection or HOPE VI vouchers: *Provided further*, That none of the funds provided under this paragraph may be used to fund a total number of unit months under lease which exceeds a public housing agency's authorized level of units under contract: *Provided further*, That the Secretary shall, to the extent necessary to stay within the amount specified under this paragraph (except as otherwise modified under this Act), pro rate each public housing agency's allocation otherwise established pursuant to this paragraph: *Provided further*, That except as provided in the last two provisos, the entire amount specified under this paragraph (except as otherwise modified under this Act) shall be obligated to the public housing agencies based on the allocation and pro rata method described above and the Secretary shall notify public housing agencies of their annual budget not later than 60 days after enactment of this Act: *Provided further*, That the Secretary may extend the 60-day notification period with the written approval of the House and Senate Committees on Appropriations: *Provided further*, That public housing agencies participating in the Moving to Work demonstration shall be funded pursuant to their Moving to Work agreements and shall be subject to the same pro rata adjustments under the previous provisos: *Provided further*, That up to \$100,000,000 shall be available only: (1) to adjust the allocations for public housing agencies, after application for an adjustment by a public housing agency that experienced a significant increase, as determined by the Secretary, in renewal costs of tenant-based rental assistance resulting from unforeseen circumstances or from portability under section 8(r) of the Act; (2) for adjustments for public housing agencies with voucher leasing rates at the end of the calendar year that exceed the average leasing for the 12-month period used to establish the allocation; (3) for adjustments for the costs associated with VASH vouchers; and (4) for vouchers that were not in use during the 12-month period in order to be available to meet a commitment pursuant to section 8(o)(13) of the Act.

Appendix B

Section 232 of the 2009 Appropriations Act (“offset”)

Of the unobligated balances remaining from funds appropriated under the heading “Tenant-Based Rental Assistance” under the Department of Housing and Urban Development Appropriations Act, 2008, \$750,000,000 are rescinded from the \$4,158,000 which are available on October 1, 2008. Such amount shall be derived from reductions to public housing agencies’ calendar year 2009 allocations based on amounts in public housing agencies’ net restricted assets accounts (in accordance with VMS data in calendar year 2008 that is verifiable and complete), as determined by the Secretary.

2009 Appropriations Act (“tenant protection”)

(2) \$150,000,000 for section 8 rental assistance for relocation and replacement of housing units that are demolished or disposed of pursuant to the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104-134), conversion of section 23 projects to assistance under section 8, the family unification program under section 8(x) of the Act, relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to a request from a law enforcement or prosecution agency, enhanced vouchers under any provision of law authorizing such assistance under section 8(t) of the Act, HOPE VI vouchers, mandatory and voluntary conversions, and tenant protection assistance including replacement and relocation assistance or for project based assistance to prevent the displacement of unassisted elderly tenants currently residing in section 202 properties financed between 1959 and 1974 that are refinanced pursuant to Public Law 106-569, as amended or under the authority as provided under this Act: *Provided*, That the Secretary shall provide replacement vouchers for all units that were occupied within the previous 24 months that cease to be available as assisted housing, subject only to the availability of funds.”

Appendix C

Administrative Fee Provision in 2009 Appropriations Act

“\$1,500,000,000 for administrative and other expenses of public housing agencies in administering the section 8 tenant-based rental assistance program and which up to \$50,000,000 shall be available to the Secretary to allocate to public housing agencies that need additional funds to administer their section 8 programs, including fees associated with section 8 tenant protection rental assistance, the administration of disaster related vouchers, Veterans Affairs Supportive Housing vouchers, and other incremental vouchers: *Provided*, That no less than \$1,400,000,000 of the amount provided in this paragraph shall be allocated to public housing agencies for the calendar year 2009 funding cycle based on section 8(q) of the Act (and related Appropriation Act provisions) as in effect immediately before the enactment of the Quality Housing and Work Responsibility Act of 1998 (Public Law 105-276): *Provided further*, That if the amounts made available under this paragraph are insufficient to pay the amounts determined under the previous proviso, the Secretary may decrease the amounts allocated to agencies by a uniform percentage applicable to all agencies receiving funding under this paragraph or may, to the extent necessary to provide full payment of amounts determined under the previous proviso, utilize unobligated balances, including recaptures and carryovers, remaining from funds appropriated to the Department of Housing and Urban Development under this heading, for fiscal year 2008 and prior fiscal years, notwithstanding the purposes for which such amounts were appropriated: *Provided further*, That amounts provided under this paragraph shall be only for activities related to the provision of tenant-based rental assistance authorized under section 8, including related development activities: *Provided further*, That of the total amount provided under this paragraph, \$50,000,000 shall be made available for family self-sufficiency coordinators under section 23 of the Act.”

CY 2009 Housing Choice Voucher Program

ATTACHMENT A – Application for \$100 Million Set-Aside

Name of PHA: _____

PHA Number: _____

Executive Director: _____

CHECK ALL BOXES THAT APPLY

_____ **A. Category (1):** I certify that _____ (PHA name and number) has experienced a significant increase in renewal costs resulting from **unforeseen circumstances**.

Documentation requirements: To be eligible for funding under this category, the unforeseen circumstances must be substantiated with sufficient evidence for a HUD analyst to justify approval and determine a funding amount under this category. This evidence along with this completed and signed Attachment A, must be submitted by the deadline date.

_____ **B. Category (1):** I certify that _____ (PHA name and number) has experienced a significant increase in renewal costs resulting from **portability**.

Documentation requirements: Renewal costs for portability will be based upon PIC reporting of portable vouchers being billed to each PHA and the average cost of those vouchers as compared to the PHA's CY 2009 funded rate, which is the FFY 2008 average HAP costs adjusted via the 2009 AAF. The Department will calculate eligibility under this category; therefore, no additional documentation is required and none will be reviewed. The PHA must submit this completed and signed Attachment A by the deadline date.

_____ **C. Category (2):** I certify that _____ (PHA name and number) has a voucher leasing rate at the end of the calendar year that exceeds the average leasing for the 12-month period used to establish the allocation.

Documentation requirements: The Department will calculate eligibility under this category; therefore, no additional documentation is required and none will be reviewed. The PHA must submit this completed and signed Attachment A by the deadline date.

_____ **D. Category (3):** I certify that _____ (PHA name and number) will incur expenses in excess of available funds for the **costs associated with Veteran's Administration Supportive Housing (VASH) vouchers**.

Documentation requirements: To be eligible for funding under this category, the PHA must submit evidence of anticipated VASH costs for CY 2009 which will exceed the CY2009 VASH funding and the PHA's available VASH NRA. A request under this category must be substantiated with sufficient evidence for a HUD analyst to justify approval and determine a funding amount under this category. This evidence, along with this completed and signed Attachment A, must be submitted by the deadline date.

_____ E. **Category (4):** I certify that _____ (PHA name and number) requires additional funds for **vouchers that were not in use during the 12-month period in order to be available to meet a commitment pursuant to section 8(o) 13 of the Act.**

Documentation requirements: For each project based voucher commitment for which a request is being made under this category, the PHA must provide an Agreement to Enter into a HAP Contract (AHAP), in its entirety, including all exhibits. If the Housing Assistance Payments (HAP) Contract has been executed by the time of the submission of this request for adjustment, the executed HAP Contract, in its entirety, must also be submitted or the PHA must state that the HAP Contract has not yet been executed. These documents, along with the completed and signed Attachment A, and the completed and signed Attachment B (**for each project based commitment for which a request is made under this category**) must be submitted by the deadline date.

To be eligible for consideration of funds under category (1,) (2), (3) and/or (4), the PHA must complete Attachment A, and Attachment B where applicable, to this Notice -- Application for the \$100 Million Set-Aside – (by marking the applicable category (1), (2, (3)) and/or (4); provide the documentation identified on Attachment A; and must ensure signature by the appropriate PHA official) and submit it to the Department at the address below:

U.S. Department of Housing and Urban Development
Office of Housing Voucher Programs
Attn: Miguel A. Fontanez Sanchez, Director, Financial Management Division
Room 4232
451 7th Street, S.W.
Washington, DC 20410

The PHA's request must be received at the above address no later than close of business (5:00 p.m. EDST), **May 22, 2009**. **It is recommended that requests be sent using overnight mail (USPS, UPS, Fed Ex, DHL, etc) that requires signature upon delivery. Hand-delivered or standard delivery mail will be accepted; however, it is important to note that non-expedited mail has no guaranteed delivery time and is subject to the Department's security screening, which can delay delivery. Requests will only be accepted at the above location; delivery to other locations will not be accepted.** Requests not received on time will not be processed. Faxes and electronic submissions will not be accepted.

This certification must be signed by the appropriate PHA official and returned.

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

Attachment B - Project-Based Commitment Data - Federal Fiscal Year 2008

HA Number	
HA Name	

PROJECT-BASED COMMITMENTS

If the PHA had project-based (PB) commitments during FFY 2008 for which vouchers were withheld from leasing, the PHA must report for each month the number of vouchers withheld from leasing.

The PHA must complete a separate Attachment B for each PB commitment.

Project Identification	NUMBER OF VOUCHERS WITHHELD FOR EACH FOR THIS PROJECT BASED COMMITMENT ONLY											
	Oct 2007	Nov 2007	Dec 2007	Jan 2008	Feb 2008	Mar 2008	Apr 2008	May 2008	June 2008	July 2008	Aug 2008	Sep 2008

PHA Certification: I hereby certify that all 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. Convictions may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012, U.S.C. 3729, 3802)

Executive Director Signature

Date

PHA Contact

Executive Director Name

Phone Number