

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Public and Indian Housing

Special Attention of:	Notice PIH 2003-34 (HA)
Public Housing Agencies;	
HUB Directors of Public Housing;	Issued: December 19, 2003
PIH Program Center Coordinators;	Expires: December 31, 2004
Public Housing Division Directors;	
Regional Directors	Cross References

Subject: Rental Integrity Monitoring (RIM) Disallowed Costs and Sanctions Under the Rental Housing Integrity Improvement Project (RHIP) Initiative

1. Purpose. This Notice highlights the importance of timely and accurate income and rent determinations by Public Housing Agencies (PHAs) and the consequences for failure to identify and correct income and rent determination deficiencies. Over the past year, the Department has worked closely with PHAs nationwide in identifying the root causes of such deficiencies and developing corrective action plans to reduce the level of errors in subsidy calculations through the use of RIM reviews. It is now time to move forward with the RHIP goal of 50 percent error reduction by Fiscal Year 2005 and establish consequences for failure to address deficiencies. This Notice addresses:

- Incentives, disallowed costs and collection of excess subsidies paid;
- Sanctions for failure to timely respond to the RIM Review Report and to implement a Corrective Action Plan when required;
- Adjustment of Section 8 Management Assessment Program (SEMAP) scores when inconsistent with the findings of RIM reviews; and
- Self-Assessment Reviews.

2. Applicability. This Notice applies to Public Housing and Housing Choice Voucher Programs (HCV).

3. Effective Date. This Notice is effective December 19, 2003, and its application now becomes mandatory for all RIM actions including reviews, required PHA responses and corrective actions subsequent to December 31, 2003.

4. Overview. The Presidential Management Agenda for improving government performance recognized the significance of income and rent determination errors and related HUD oversight weaknesses. As a result, RHIP was initiated in 2001 by the Department of Housing and Urban Development in response to deficiencies in public and assisted housing rental subsidy determinations identified through internal auditing. These

deficiencies resulted in an estimated \$600 million in tenant rent overpayments and \$1.7 billion in tenant rent underpayments annually. Additional subsidy overpayments were attributed to tenant underreporting of income, with an estimate of \$978 million. In addition to the Presidential mandate requiring the Department to reduce income and rent errors, the Improper Payments Information Act of 2002 (Public Law No: 107-300) requires the annual measurement and reporting of erroneous federal payments.

In order to achieve error reduction, the Department implemented RIM reviews, a key component of RHIIP. The RIM initiative represents an approach that focuses on a PHA's income and rent calculations and those occupancy activities (e.g., PHA's quality control procedures) that directly impact the accuracy of income and rent calculations.

5. Incentives, Disallowed Costs, and Collection of Excess Subsidies. The chart below outlines existing incentives for pursuing tenant fraud and HUD's policy for the collection of disallowed costs. Disallowed costs relate to PHA errors uncovered during RIM reviews that result in HUD overpayment of subsidy. Subsidy overpayments must be returned to the Department. Disallowed costs due to HUD shall be forgiven if amounts are less than or equal to \$2,500 per PHA program review.

Voucher Program	Overpayment of Subsidy	Underpayment of Subsidy
Tenant Fraud	PHAs who enter into a repayment agreement with the family to collect excess subsidies owed to the program, initiate litigation against the family to recover excess subsidies owed to the program, or initiate termination of the family from the program, may retain 50 percent of HCV funds collected, if conditions specified at 24 CFR 792.202 and 982.163 are met. PHAs who do none of the above, must return to HUD all amounts that constitute an overpayment of subsidy.	Not Applicable

PHA Error	HUD staff will go back to the latest reexamination and calculate disallowed costs from that date. PHAs must reimburse HUD for 50 percent of these costs in excess of \$2,500. PHAs are required to correct the tenant records and ensure accurate rent payment, prospectively.	PHA may be reimbursed by HUD only for subsidy underpayments related to the current fiscal year not yet settled in HUDCAPS. PHAs are required to reimburse families for overpayment of family share in accordance with PHA policy.
Public Housing Tenant Fraud	Overpayment of Subsidy PHAs who enter into a repayment agreement with the family to collect excess subsidies owed to the program, initiate litigation against the family to recover excess subsidies owed to the program, or begin eviction proceedings against the family may retain 100 percent of fraud collections. PHAs who do none of the above must return to HUD all amounts that constitute an overpayment of subsidy.	Underpayment of Subsidy Not Applicable
PHA Error	If the error impacts the rent roll used for the calculation of operating subsidy, then HUD will calculate disallowed costs based on the subsidy overpayment caused by the PHA error.	PHAs will not be reimbursed for underpayment of subsidies. PHAs are required to reimburse residents for overpayment of tenant rent in accordance with PHA policy.

6. Sanctions. PHAs must identify and implement corrective actions or rectify errors in meeting program requirements uncovered during RIM reviews. In the event that a PHA fails to comply with the requirements of the RIM review, HUD will impose sanctions on the PHA pursuant to Section 6(j)(4)(A)(v) of the U.S. Housing Act of 1937 and 24 CFR 982.152(d) regarding voucher programs, and will impose sanctions on the PHA pursuant to Section 6(j)(4)(A)(ii) of the U.S. Housing Act of 1937 and 24 CFR 990.113(c) regarding public housing programs.

A. Circumstances Leading to Sanctions. The following shall result in sanctions: (1) failure to submit a Corrective Action Plan as directed by the

Field Office within the timeframes outlined by the Field Office; and (2) failure to implement corrective actions pursuant to a Field Office approved Corrective Action Plan.

(1) Housing Voucher Program Administrative Fee Withholding.

Pursuant to Section 6(j)(4)(A)(v) of the U.S. Housing Act of 1937 and 24 CFR 982.152(d), if, as a result of a RIM review, it is discovered that a PHA does not respond to a RIM Review Report within 45 days, or does not implement its corrective actions within the timeframes approved by the Field Office, 10 percent of its monthly scheduled administrative fee advance will be withheld beginning the month the Field Office makes the sanction effective and lasting until the PHA has complied with the program requirements.

(2) Public Housing Operating Subsidy Withholding. Pursuant to Section 6(j)(4)(A)(ii) of the U.S. Housing Act of 1937 and 24 CFR 990.113(c), if, as a result of a RIM review, it is discovered that a PHA does not respond to a RIM Review Report within 45 days, or does not implement its corrective actions within the timeframes approved by the Field Office, five percent of its monthly scheduled operating subsidy will be withheld beginning the month the Field Office makes the sanction effective, and shall last until the PHA has complied with the program requirements.

7. SEMAP Indicator 3 (Determination of Adjusted Income). Pursuant to 24 CFR 985.2(b) and 985.105(c), a RIM review may serve as a SEMAP confirmatory review. In the event that a PHA's self-certification of SEMAP Indicator 3 (Determination of Adjusted Income) is not supported by a RIM review, the Field Office must adjust the SEMAP score for that indicator, regardless of its impact on the PHA's SEMAP performance designation (high, standard, troubled). If during the RIM review, it is discovered that other indicators are also not supported by file or other documentation, the SEMAP score for those indicators shall be adjusted.

If the RIM review is conducted within the first six months of the PHA's fiscal year, the final score issued for the previous fiscal year shall be adjusted. Unless the Field Office can confirm through an on-site or remote review conducted prior to the submission deadline for the next SEMAP Certification that the PHA has corrected its RIM related deficiencies under SEMAP, the next SEMAP Certification shall be adjusted as well. If the RIM review is conducted within the last six months of the PHA's fiscal year, only the SEMAP Certification submitted at the end of the fiscal year in which the RIM review was done shall be adjusted.

8. Self-Assessment Reviews. During Fiscal Years 2004 and 2005, HUD will conduct additional targeted and random RIM reviews of PHAs managing over 250 combined units of public housing and vouchers. HUD strongly encourages PHAs to conduct self-assessment reviews to quality control and assure that the PHA's income and rent

determination process is in compliance with program requirements. RIM reference materials will be available for PHAs on PIH's RHIIP website at <http://www.hud.gov/offices/pih/programs/ph/rhiip/index.cfm>.

9. Appeals. A PHA may appeal the imposition of sanctions, and/or disallowed costs to the HUD Field Office within 30 calendar days of imposition of adverse action(s) by submitting a written request to the HUD Field Office via certified mail. For adjustments of SEMAP scores as a result of a RIM review, please refer to the SEMAP appeal process. The written request must provide material evidence or justification of any arguments or additional facts and data concerning the proposed adverse action. The PHA may not request more than one appeal per adverse action (i.e., only one request for an appeal is allowed for the imposition of disallowed costs.)

The Field Office will have 30 calendar days from receipt of a request for an appeal to approve or deny the appeal. If the Field Office fails to approve or deny the appeal during this time, the appeal will be automatically granted to the PHA. An appeal made to a Field Office (HUD Hub or program center), and denied, may be further appealed to the Assistant Secretary within 15 calendar days from the date of the denial. The PHA shall submit the appeal via certified mail to the Office of the Assistant Secretary for Public and Indian Housing.

Appeals submitted to HUD Headquarters that include material evidence not submitted with the initial appeal to the Field Office, or appeals made to HUD Headquarters directly, without first being submitted to the Field Office, will not be considered.

10. Information Contact. Inquiries about this Notice should be directed to Tawanna Preston of the Management and Occupancy Division at (202) 708-0614, extension 4136 or to the appropriate HUD Field Office.

11. Paperwork Reduction. The information collection requirements contained in this Notice have been approved by the Office of Management and Budget (OMB) under the Paper Reduction Act of 1995 (44 U.S.C. 3520). 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. The following active information collections contained in this Notice have been approved under the Paperwork Reduction Act (PRA) – Paragraph 6: Appeals – OMB Control Number 2577-0083 (Family Report), OMB Control Number 2577-0220 and 2577-0230 (Admissions and Occupancy Requirements) and Paragraph 7: SEMAP – OMB Control Number 2577-0215.

_____/s/_____
Michael Liu
Assistant Secretary, PIH