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 2011- 27(HA)

Issued: June 2, 2011

Expires: December 31, 2011

Cross References:

SUBJECT: Implementation of the Federal Fiscal Year 2011 Funding Provisions for the Housing Choice Voucher Program

1. **Purpose**. This Notice implements the Housing Choice Voucher (HCV) program funding provisions of H.R. 1473 Department of Defense and Full-Year Continuing Appropriations Act, 2011 (PL 112-10) referred to hereafter as "the 2011 Act," enacted on April 15, 2011. The 2011 Act establishes the allocation methodology for calculating housing assistance payments (HAP) renewal funds, new incremental vouchers and administrative fees.

2. **Summary**. The HCV program is the largest rental assistance program in the nation. Funding is provided through Annual Appropriation Acts through HUD, which in turn distributes it to public housing agencies (PHAs) in accordance with the Appropriations Act as described in this Notice.

   In 2011, Congress appropriated **$18,407,688,000** to fund the HCV program with an automatic across-the-board rescission of 0.2% to each line of funding/budget authority. Of that, funding is broken down in the amounts appropriated (and amounts available after the 0.2% rescission) and sections of the Act as follow:

	Appropriations	Available
HAP Renewal funding[1]	$16,702,688,000	$16,669,282,624
Tenant Protection Vouchers	$ 110,000,000	$ 109,780,000
Administrative Fees	$ 1,450,000,000	$ 1,447,100,000
Family Self-Sufficiency	$ 60,000,000	$ 59,880,000
Veterans Affairs Supportive Housing	$ 50,000,000	$ 49,900,000
Mainstream 5 Year Program	$ 35,000,000	$ 34,930,000
Total Calendar Year (CY) 2011 Appropriation	**$18,407,688,000**	**$18,370,872,624**

[1] From the $16,702,688,000, the 2011 Act provides up to $150 million which will be used as a set-aside to address four specific categories of need. The 0.2% rescission applied to the $150 million set-aside is reflected in the total budget authority available in the HAP Renewal funding displayed; the available set-aside funding will be $149,700,000. Additionally, the Department determined that up to $100 million may be transferred from the HAP Renewal account to the Transformation Initiative.

This implementation notice provides detailed information concerning how HUD calculates funding for every PHA's HCV program. In addition, each PHA will receive an individual funding letter with the PHA's funding calculations attached. If a PHA does not understand the calculation or has questions related to this Notice, the PHA should contact its Financial Analyst (FA) at the Financial Management Center (FMC).

This Notice is organized into sections designed to address the funding of both vouchers and administrative fees (Sections 3 through 8) and other policy issues (Sections 9 through 14). Additionally, Appendix A provides the text of the 2011 and the 2010 Appropriations Act as it relates to HCV funding.

PHAs are encouraged to pay particular attention to Section 3b (set-aside) and Attachments A and B of this Notice. The 2011 Act provides a $150 million set-aside (*actual set-aside funding available following 0.2% mandatory rescission is $149,700,000) for specific categories only. In order to be considered for funding under the set-aside funding, a PHA must meet the eligibility requirements described in Section 3b, and submit a completed Attachment A (and, where applicable, Attachment B) and the required supporting documentation in the timeframe and manner prescribed in this Notice.

This year, HUD is again focused on ensuring that PHAs appropriately manage their HCV programs within the funding provided for the CY and existing net restricted assets (NRA). PHAs should review their per unit costs (PUC), leasing and attrition rates on a monthly basis to be able to plan for upcoming months and carefully manage their wait lists. Unlike in CY 2008 and 2009, Congress did not require that HUD perform an offset from PHAs' NRA. However, HUD does plan to monitor NRA balances closely this year and continues to require PHAs to report NRA balances in the Voucher Management System (VMS) on a monthly basis.

3a. <u>Calculation of CY 2011 HAP Renewal Funding</u>

The 2011 Act requires that HUD utilize a re-benchmarking renewal formula based on validated leasing and cost data in VMS for Federal Fiscal Year (FFY) 2010 (October 1, 2009 through September 30, 2010). The renewal provisions of the Act are stated in **Appendix A**.

HUD will provide renewal funding as follows:

Step 1: A new HAP funding baseline will be established based on all validated leasing and cost data[2] (not to exceed unit months available under the Annual Contributions Contract (ACC)) in VMS for FFY 2010, including data that reflects the use of unrestricted net assets (UNA), extraordinary admin fees, or other eligible resources (e.g., such as local funding), for HAP costs during the re-benchmarking period.

[2] In those rare instances where vouchers were transferred from one PHA to another during the rebenchmarking period, the leasing and cost data of the PHAs will be adjusted to ensure that the leasing and costs represented by the transferred vouchers are properly accounted for in the eligibility of the receiving PHA.

Step 2: As required by the Act, HUD will make adjustments for the first-time renewal of certain vouchers. These are tenant protection vouchers and special purpose vouchers such as Family Unification, Veterans Affairs Supportive Housing and Nonelderly Disabled vouchers that are expiring in CY 2011, where the initial funding increment was effective on or after August 1, 2009. The funding baseline is increased to cover the HAP costs of these vouchers for the months in CY 2011 that (1) are not covered by the term of the initial funding increment and (2) are not expected to be fully reflected in VMS for the re-benchmarking period used in Step 1 (FFY 2010), including consideration of a lease-up period for the new vouchers. With respect to new voucher allocations that were effective prior to August 1, 2009, renewal needs should be fully reflected in VMS data for the re-benchmarking period; therefore, no funding adjustment is necessary. See **Appendix B** for an example of an adjustment calculation and a more detailed explanation.

Step 3: The funding baseline will be further increased where necessary to cover the costs associated with deposits to family self-sufficiency (FSS) program escrow accounts. This adjustment is for those FSS escrow deposits that commenced after the re-benchmarking period and consequently are not reflected in the PHA's VMS funding baseline (Step 1). HUD first identifies the number of new FSS participants with progress reports in the Public and Indian Housing Information Center (PIC) for the period of October 2010 through December 2010. HUD then calculates the amount of the adjustment by multiplying the sum of the escrow deposits made on behalf of those FSS participants for the month of December by 12 to estimate the additional cost of these escrow deposits during Calendar Year 2011. See **Appendix B** for a sample calculation and a more detailed explanation.

Step 4: The HUD-published Renewal Funding Annual Adjustment Factor (AAF) for 2011 for the HCV program will be applied to the PHA's calculated 12 month renewal requirement after all adjustments have been applied under Steps 1 through 3 above. The specific Renewal Funding 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 Renewal Funding AAF will be adjusted upward by an additional quarter, to reflect the time lag between the end of the re-benchmarking period (September 30, 2010) and the end of CY 2010.

Step 5: Proration: HUD will determine the total eligibility for all PHAs and compare that amount to the total available HAP renewal funding per the 2011 Act in order to determine a proration factor. This proration factor will then be applied to each PHA's CY 2011 eligibility. A pro-ration of less than 100 percent may be necessary in the event that the nationwide eligibility exceeds the available HAP renewal funding.

3b. <u>Set-aside of up to $150 million* to Adjust PHA Allocations</u>.
This set-aside is for additional <u>HAP</u> needs only; additional administrative cost needs are ineligible for funding through this set-aide

The 2011 Act provides that **up to $150 million** (*actual set aside funding available following 0.2% mandatory rescission is $149,700,000) shall be available to PHAs in four specific categories only:

Category (1): to adjust the allocations for PHAs that experienced a significant increase in renewal costs of tenant-based rental assistance resulting from unforeseen circumstances or from portability under section 8(r) of the Act;

Category (2): for adjustment for PHAs with voucher leasing rates at the end of CY 2010 that exceed the average leasing for the 12-month period used to establish the allocation;

Category (3): for adjustments for the costs associated with Veterans Affairs Supportive Housing (VASH) vouchers; and

Category (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.

Please note that in order to receive funding under the $149.7 million set-aside, PHAs must complete and submit Attachment A, provide the required documentation identified below and, where applicable, Attachment B of this Notice, by close-of-business Thursday, June 23, 2011.

HUD may make determinations of eligibility for set-aside funding based on need as determined by HUD. As part of the process, HUD will review the financial status, which may include the available NRA balance, for each applicant agency to determine if the requested set-aside funds are needed. Additionally, if eligible requests exceed the funding available, awards for any/all categories may 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. **As noted above, for all eligible categories the application deadline is COB Thursday, June 23, 2011.** Submission requirements are described below.

A-1. Category (1)
Unforeseen Circumstances:
To be eligible for funding under this category, a PHA must submit the following:

a. Attachment A
b. Written narrative detailing the unforeseen circumstances that occurred during or after the FFY 2010 rebenchmarking period that have significantly increased renewal costs.
c. Evidence to support the narrative.
d. PHA calculation of the increased costs for CY 2011.

HUD reserves the right to request additional information or ask for clarification, if necessary.

For Unforeseen Circumstances, it is important to note that PHAs must submit all items (a-d) above by the application deadline in order for the application to be considered. Failure to provide any of the required documents, including the PHA calculation of the increased costs, will result in denial of the application.

The following are some examples of unforeseen circumstances and accompanying evidence HUD would consider in its evaluation under this Category:

- PHAs that have experienced significant increases in the cost of assistance due to an unforeseeable rise in rental costs that exceeds the applicable 2011 Renewal Funding AAFs published by HUD for the HCV program; documentation could include evidence of increased rents, identification of affected contracts and a calculation of the increased costs. **A calculation must be provided by the PHA**.
- PHAs experiencing an increase in their per unit HAP costs in comparison to the pro-rated funded HAP PUC for CY 2011 due to economic conditions resulting in decreases in total tenant payment (TTP); documentation could include actual per unit TTPs and HAP costs experienced by the PHA in CY 2011. **A calculation must be provided by the PHA**.

A-2. Category (1)
Portability:
To be eligible for funding under this category, the PHA must have experienced a significant increase in renewal costs due to portability for tenant-based rental assistance under Section 8(r) of the Act. To calculate eligibility under this category, the Department will compare the average HAP Per Unit Cost (PUC) for the rebenchmarking period (10-1-09 to 9-30-2010) to the average HAP PUC for "Port Vouchers Paid" during the rebenchmarking period, both based on reporting in VMS. If the portability average HAP exceeds 110% of the program-wide average HAP PUC for the rebenchmarking period, the PHA will be eligible for set-aside funding. The difference between 110% of the port average PUC and the program-wide average PUC will be multiplied by the total unit months leased for the “Port Vouchers Paid” reported in VMS during the rebenchmarking period to determine funding eligibility. 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.**

B. Category (2)
Additional Leasing:
To be eligible for funding under this category, a PHA must have a voucher leasing rate at the end of the CY that exceeds the average leasing for the 12-month period used to establish the allocation. To determine eligibility under this category, the Department will identify the higher of (1) the PHA’s actual leasing for December 2010 or (2) the PHA’s average monthly leasing for the months of October through December 2010. This value (not to exceed the baseline ACC units) will be compared to the PHA’s average monthly leasing in FFY 2010. If the PHA leasing at the end of 2010 exceeds the PHA’s average monthly leasing in FFY 2010, the PHA will be eligible for funding for the additional unit months that exceed a threshold established by HUD. See Appendix B for a sample calculation and a more detailed explanation.

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.**

<u>C. Category (3)</u>
<u>HUD-VASH</u>:
To be eligible for funding under this category, the PHA must submit evidence of anticipated VASH costs for CY 2011 which will exceed the CY 2011 VASH funding. 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.**

<u>D. Category (4)</u>
<u>Project-based Vouchers</u>:
To be eligible for funding under this category, a PHA must show that vouchers were not in use during the FFY 2010 rebenchmarking 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. Adjustments will not be made under any circumstances for those units under an AHAP commitment that, when added to units under lease for CY 2010, exceed the PHA's baseline units under ACC for CY 2010. (The PHA would not have been able to lease those shelved vouchers during CY 2010 due to the restriction on over-leasing.)

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. If the HAP Contract has not been executed, 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 below. PHAs are advised to provide all applicable supporting documentation along with the completed/signed Attachment A and Attachment B, where applicable, by the deadline date established in the Submission Requirements section. (Note: If applying for more than one category, only one Attachment A is required.)

Quick Reference Chart for Set-Aside Funds

Category	PHAs must submit
(1) Unforeseen Circumstances	• Attachment A • Written Justification • Evidence to support justification • PHA calculation of the increased costs **Failure to provide the items identified above, <u>including the PHA</u>**

	<u>calculation of increased costs</u>, WILL result in a rejection of the PHA's application for Unforeseen Circumstances
(1) Portability	• Attachment A
(2) Additional Leasing	• Attachment A
(3) HUD-VASH	• Attachment A • Evidence that 2011 anticipated VASH costs exceed VASH funds
(4) PBV	• Attachment A • Attachment B (continues next page) • Executed AHAPs • Executed HAPs or statement by PHA that none have been executed yet

<u>Submission Requirements</u>:

To be eligible for consideration of funds under category (1) (2), (3) and/or (4), the PHA must complete and submit Attachment A to this Notice - Application for the $149.7 million set-aside, **along with the required documentation, including the PHA calculation of increased costs (for the Unforeseen Circumstances category**). For Category (4) only, PHAs must also submit Attachment B to this Notice. Please mark the applicable category (1), (2), (3) and/or (4); provide the documentation identified on Attachment A; ensure signature by the appropriate PHA official; and submit the request to the Department at the address below:

U.S. Department of Housing and Urban Development
Office of Housing Voucher Programs
Attn: Miguel A. Fontanez, Director, Financial Management Division
Room 4222
451 7th Street, S.W.
Washington, DC 20410

<u>The PHA's request must be received at the above address no later than close of business (5:00 p.m. EDST), Thursday, June 23, 2011.</u>

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 (including Priority Mail from the Postal Service) 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; requests delivered to other locations **<u>will not</u>** be accepted. Requests not received on time **will not** be processed. Faxes and electronic submissions **<u>will not</u>** be accepted.

4. <u>Tenant Protection Vouchers</u>. HUD will provide replacement vouchers for **all** units that were occupied within the previous 24 months that cease to be available as public housing or assisted housing, subject only to the availability of funds (See Appendix A for Appropriations text). In certain circumstances HUD may reduce the amount of funding in the funding allocation if the PHA has excessive NRA available to use to support some of the units.

A) <u>Housing Conversion Actions</u>. 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 24 months prior to 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:

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

B) <u>Public Housing Demolition/Disposition and Conversion</u>. PHAs are eligible to receive vouchers for the number of units that:

(1) will cease to be available as public housing as a result of the approved demolition, disposition, or conversion action, and

(2) were occupied by a public housing resident within the 24 months prior to 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.

C) <u>Moderate Rehabilitation (MR) and Single Room Occupancy (SRO) Replacements</u>. PHAs are eligible to receive vouchers for the number of units occupied within 24 months prior to the expiration of the MR or SRO contract or the MR or SRO contract termination.

HUD plans to provide additional guidance through upcoming PIH notices regarding housing conversion actions and demolition/disposition actions.

5. <u>Funding for Administrative Costs</u>.
The 2011 Act provides **$1,447,100,000** for administrative fees to PHAs administering the voucher program (See Appendix A for Appropriations text). Of the appropriated amount, approximately **$1,427,100,000** will be available for ongoing administrative fees and fees for new vouchers and approximately **$20,000,000** will be made available to allocate to PHAs that need additional funds to administer their section 8 programs.

A) Ongoing Administrative Fees and Administrative Fees for New Vouchers. Ongoing administrative fees and administrative fees for new vouchers will be paid based on leasing. These administrative fees will be calculated for CY 2011 as provided for by section 8 (q) of the United States Housing Act (and related Appropriation Act provisions) 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 new incremental vouchers will also be paid based on leasing.

Please note that beginning in CY 2010, HUD no longer provided a lower administrative fee for PHA owned units. A PHA earns the same amount of administrative fee for a PHA owned unit as it does for a non-PHA owned unit.

1) **Pro-ration and Reconciliation of Administrative Fees:**

HUD 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://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv/

HUD advances administrative fees to PHAs on a monthly basis prior to receiving actual leasing data from PHAs in VMS. Each PHA's administrative fee eligibility will be reconciled every month based on actual reported leasing by either increasing or offsetting the amount of subsequent administrative fee payment. A final reconciliation is completed after the December 2011 leasing data is reported in VMS.

HUD compares each month's national eligibility for administrative fees to the appropriated amount available for ongoing administrative fees. HUD prorates the administrative fees (and consequently the monthly disbursements) based on reported leasing to the extent necessary not to exceed the amount appropriated for ongoing administrative fees for CY 2011.

PHAs have received administrative fee advances for the early months of CY 2011 which are subject to reconciliation. Based on the Appropriations, PHAs should assume that the amounts advanced in the early months of the year will exceed the final earnings for those months.

2) **Blended Rate Administrative Fees PHAs may request a blended administrative fee rate if eligible under the circumstances as described below:**

Blended Rate Administrative Fees: PHAs serving multiple administrative 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 3b no later than close of business **Thursday**, **June 23, 2011**, if they are requesting a blended rate. The blended rate will be used for the entire CY.

B) Special Fees. As stated above, HUD will make approximately **$20,000,000** available to allocate to PHAs that need additional funds to administer their section 8 programs. HUD has determined that these funds may be provided for the following purposes:

- Homeownership Fees: HUD will provide the$1,000 special fee for a family participating in the Voucher Homeownership, Section 8 Family Self Sufficiency, or a Section 8 MTW homeownership program. Fees are paid to the PHA administering the voucher after the homebuyers closing is reported in PIC and a closing date is provided to the Department.

- 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.

Any remaining funds will be available to HUD to assist PHAs in need of additional funds to administer their HCV program.

C) Uses of Administrative Fees.

i. Administrative Fees. Administrative fees may only be used to cover costs incurred to perform PHA administrative responsibilities for the HCV program in accordance with HUD regulations and requirements.

ii. UNA (formerly known as "administrative fee reserve"). Any administrative fees from 2011 funding (as well as 2004, 2005, 2006, 2007, 2008, 2009 and 2010 funding) that are subsequently moved into the UNA Account at the PHA's fiscal year end must only be used 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. If a PHA has not adequately administered its HCV program, HUD may prohibit use of funds in the UNA Account and may direct the PHA to use funds in that account to improve administration of the program, for HCV HAP expenses, or to reimburse ineligible expenses in accordance with the regulation at 24 CFR 982.155(b)(3).

6. **Family Self-Sufficiency (FSS)**. The 2011 Act provides that **$59,880,000** shall be made available for FSS coordinators under section 23 of the Act. A Notice of Funding Availability (NOFA) will be published during 2011 that will provide the eligibility criteria and application requirements for these funds.

7. **Veterans Affairs Supportive Housing (VASH)**. The 2011 Act provides funding for incremental vouchers for the VASH program in the amount of **$49,900,000**. Guidance regarding the eligibility criteria and application requirements for these funds will be forthcoming. It is anticipated that invitations to PHAs, based on Veterans Administration/HUD determination of needs of homeless veterans, will be issued in July

2011 for these vouchers. Once the initial award for the VASH program has been expended and the VASH increment renewed, unexpended budget authority from the VASH renewal increment will accrue to the overall HAP NRA and will be available for current and future needs of the HCV program, including VASH.

As required by the 2010 Act and continued under the 2011 Act, incremental vouchers provided under the VASH and Family Unification Programs (FUP) must continue to remain available for the intended populations (family unification families, homeless veterans) upon turnover. PHAs are reminded that this restriction on the use of turnover vouchers also applies to vouchers made available for VASH, FUP and Non-Elderly Disabled (NED) program funded under HUD's FY 2008 and 2009 Appropriations Acts.

8. **PHA Management of HCV Program Utilization and Funding**.
PHAs must manage their programs in a prudent manner to enable them to serve families within their CY 2011 allocations and voucher baselines. PIH Notice 2009-44 provides guidance on cost-savings measures PHAs may take to reduce financial shortfalls in the HCV program.

It is important to note that the 2011 Act continues to strictly prohibit the use of appropriated HAP funds by any PHA, except for PHAs participating in the Moving To Work demonstration, to lease units above their ACC baseline units during any CY, even if the PHA has sufficient Budget Authority (BA) and/or HAP NRA to support the additional units. 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.

In CY 2011, HUD will continue to aggressively monitor utilization to ensure PHAs are complying with the HCV financial and Appropriations Act requirements. Staff in the local HUD field office and FMC is available to assist PHAs with issues related to the HCV program. **PHAs are advised that there is no additional funding to assist PHAs that experience funding shortfalls during CY 2011**.

9. **Use of HAP NRA**. PHAs are reminded that funds in the HAP NRA account shall only be used for eligible HAP needs in the current and future CYs. The ACC requires PHAs to use HAP funding to cover rental assistance payments. **HAP and/or HAP NRA shall not under any circumstances be used for any other purpose, such as to cover administrative expenses or be loaned, advanced or transferred (referred to as operating transfers due to/due from) to other component units or other programs such as Low Rent Public Housing**. Use of HAP for any purpose other than eligible HAP needs is a violation of law, and such illegal uses or transfers will result in sanctions and possible declaration of breach of the ACC.

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

10. **VMS/FASS Reporting and Data Integrity**. The Department will continue to deploy Quality Assurance Division (QAD) 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 do not exceed the rents for comparable unassisted units in the market.

    PHAs must continue to submit required financial documents including, but not limited to, monthly VMS and annual FASS electronic submissions. PHAs that do not submit the required data by the reporting deadline may be sanctioned as provided by 24 CFR 982.152(d), and in accordance with the procedures outlined in PIH Notice 2008-09. PHAs that fail to meet the submission requirements may be subject to administrative actions, including but not limited to, an imposition of a penalty against the PHA's monthly administrative fees until the PHA complies with these requirements. This penalty represents a permanent reduction for the current CY that shall not be reversed.

11. **HAP Disbursements and Frontloading**. PHAs will receive monthly disbursements based on their budgetary allocations from HUD on a CY basis. PHAs may request adjustments to monthly disbursements (frontloading), not to exceed their annual budgetary allocations, by contacting their Financial Analyst (FA) at the Financial Management Center (FMC).

12. **Mainstream 5 Program (MS5):**
    Funding for this program historically came from the Section 811 Appropriations. The 2011 Act provides that renewal funding for the remainder of CY 2011 will be provided from the Tenant-Based Rental Assistance Account (TBRA). Note that funding provided under the previous Continuing Resolutions (CR) came from the Section 811 Appropriations instead of the TBRA account. Renewal funding provided under the CRs and under the 2011 Act is expected to be sufficient to cover renewal requirements to the end of CY 2011. Mainstream 5 program renewals will not be re-benchmarked during CY2011; these renewals will continue to be calculated based on the same methodology as in previous years.

13. **Excluded Programs**. The changes implemented by this Notice do not apply to renewal funding for the Section 8 Moderate Rehabilitation or Single Room Occupancy (SRO) programs.

14. **MTW**. MTW agencies will continue to have their funding determined pursuant to their MTW agreements. HUD is directed by the 2011 Act to again apply the same pro-ration factor to the HCV allocations for MTW agencies as is applied to all other PHAs. Note that MTW agencies may utilize section 8 funds for section 9 purposes in accordance with their agreements.

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.

Further Information.

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/

Sandra B. Henriquez, Assistant Secretary for
Public and Indian Housing

<u>Appendix A</u>

The 2011 Appropriations Act renewal formula provides:

> Sec. 2235. Notwithstanding section 1101, the level for `Department of Housing and Urban Development, Public and Indian Housing, Tenant-Based Rental Assistance' shall be $14,407,688,000, to remain available until expended, which shall be available on October 1, 2010 (in addition to the $4,000,000,000 previously appropriated under such heading that became available on October 1, 2010), and, notwithstanding section 1118, an additional $4,000,000,000, to remain available until expended, shall be available on October 1, 2011: *Provided*, That of the amounts available for such heading, $16,702,688,000 shall be for activities specified in paragraph (1) under such heading of title II of division A of Public Law 111-117; $110,000,000 shall be for activities specified in paragraph (2) under such heading in such Public Law; $1,450,000,000 shall be for activities specified in paragraph (3) under such heading in such Public Law, of which $1,400,000,000 shall be allocated as provided in the first proviso of such paragraph (3); and $50,000,000 shall be for activities specified in paragraph (6) under such heading in such Public Law: *Provided further*, That paragraph (5) under such heading in such Public Law is amended by striking `$15,000,000' and all that follows through the end of such paragraph and inserting `$35,000,000 for amendment and renewal of tenant-based assistance contracts under section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013), including necessary administrative expenses;'.

The 2010 Appropriations Act provisions are as follows:,

> *(1*) ……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 special purpose vouchers initially funded in fiscal year 2008 and 2009 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 2010 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 most recent 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, except for public housing agencies participating in the

Moving to Work demonstration, which are instead governed by the terms and conditions of their MTW agreements: 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 prior 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 $150,000,000 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; or (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: Provided further, That the Secretary shall allocate amounts under the previous proviso based on need as determined by the Secretary: Provided further, That of the amounts made available under this paragraph, up to $100,000,000 may be transferred to and merged with the appropriation for `Transformation Initiative';

2010 Appropriations Act ("tenant protection")

(2) ……-shalll be 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 B – Examples as referenced in this Notice:

Section 3a. Step 2 of this Notice:

Example of first-time renewal of certain vouchers awarded to PHAs effective August 1, 2009 and later and expiring before December 31, 2011, which will require renewal funding for a portion of CY 2011.

New Increment Effective Date:	April 1, 2010
New Increment Expiration Date:	March 31, 2011
Number of Units:	75
Budget Authority (BA):	$472,500
Per Unit BA:	$525
(BA divided by 75 units and divided by12 months)	
Average FFY 2010 VMS per Unit Cost:	$480

Months	Funding Adjustments	Justifications
3	0	Since the original funding increment does not expire until March 31, 2011, the funding already covers three months of 2011. No adjustment is necessary for three months.
3	$118,125	For purposes of making adjustments for first-time renewals, HUD assumes all of the vouchers in the new increments are not leased for up to three months from the effective date of the increment. A funding adjustment is made to cover this "lease-up" period. The adjustment will be less than 3 months if the effective date of the increment is less than 3 months from the end of the re-benchmark period. Units are funded at the higher of the original per unit BA or average PUC from VMS baseline in this example. Funding adjustment calculated at $525 per unit per month for 75 units.
3	0	Leasing and costs for all of the vouchers is expected to be fully reflected in VMS commencing with the fourth month of the funding increment (in this example July 2010) through the end of the re-benchmark period (September 2010). No adjustment is necessary for those months. In this example, that period equals 3 months.
3	$118,125	An adjustment is made for any remaining months of CY 2011 that are not covered by lease-up period adjustment, the VMS re-benchmarking period, or the original funding increment. This is funded in the same manner as described in 2 above.
12	$236,250	Total adjustment necessary to account for 12 months of funding

Section 3a. Step 3 of this Notice: Example of adjustments for costs associated with deposits from FSS program escrow accounts:

A PHA has 4 new progress reports (identified in line 17b of HUD Form 50058) entered in PIC with effective dates from October 1, 2010-December 31, 2010 with FSS escrow credits (reported in Line 17k of HUD Form 50058). These families had monthly escrow amounts that totaled $910 for the month of December 2010. The calculation for this PHA would be as follows:

$910 x 12 months (to annualize the total) = $10,920 (provided for this adjustment)

Section 3b of this Notice (Category 2 of the $149.7 million set-aside – Additional Leasing): Example and explanation of adjustment for additional leasing:

- HA001 has 400 ACC units.
- FFY 2010 actual leasing for HA001 was 3,960 unit months, for an FYY 2010 average monthly leasing of 330 units.
- December 2010 actual leasing was 385 units.
- October through December 2010 average leasing was 380 units.

To determine if HA001 is eligible for additional funds under this Category, the following comparison will be made:

- FFY 2010 average monthly leasing = 330 units
- December 2010 actual leasing = 385 units
- October through December 2010 average monthly leasing = 380 units

Since the December actual leasing is the highest of the three periods, but is still within the PHA's baseline of 400 units per month, funds (in excess of a threshold amount determined by HUD) may be provided to cover the difference between the FFY 2010 average monthly leasing and the December 2010 actual leasing as follows:

December Leasing	385
FFY 2010 Average Monthly Leasing	-330
	55 units

The difference of 55 units is then multiplied by 12 months (to annualize) for a total of 660 unit months that may be eligible for additional funding under this category.

HUD may fund the additional unit months in excess of a threshold established by the Department.

Please note that funding eligibility for any/all categories may be pro-rated if eligible requests exceed the funding available. HUD will also review the PHA's financial status, which may include the available NRA balance, for each applicant agency to determine if the requested set-aside funds are needed.

In no event will funds be provided for units in excess of the PHA's ACC units.

CY 2011 Housing Choice Voucher Program

ATTACHMENT A – Application for $149.7 Million Set-Aside

Name of PHA: ____
PHA Number: ____
Executive Director: ____

CHECK ALL BOXES THAT APPLY

______A-1. **Category (1)**: **Unforeseen Circumstances**.

______A-2. **Category (1)**: **Portability**.

______B. **Category (2)**: **Additional Leasing**.

______ C. **Category (3) : HUD-VASH.**

______ D. **Category (4)**: **Project-Based Vouchers.**

Documentation requirements for each of the above categories are contained in Section 3b. of this Notice.

Applications and supporting documentation must be submitted by the deadline date established in Section 3b. of this Notice and should be submitted to:

U.S. Department of Housing and Urban Development
Office of Housing Voucher Programs
Attn: Miguel A. Fontanez Sanchez, Director, Financial Management Division
Room 4222
451 7th Street, S.W.
Washington, DC 20410

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 2010

HA Number	
HA Name	

PROJECT-BASED COMMITMENTS

If the PHA had project-based (PB) commitments during FFY 2010 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.

	NUMBER OF VOUCHERS WITHHELD FOR EACH FOR THIS PROJECT BASED COMMITMENT ONLY											
Project Identification	**Oct 2009**	**Nov 2009**	**Dec 2009**	**Jan 2010**	**Feb 2010**	**Mar 2010**	**Apr 2010**	**May 2010**	**June 2010**	**July 2010**	**Aug 2010**	**Sep 2010**

<u>PHA Certification:</u> 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