

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4459-N-01]

### Renewal of Section 8 Tenant-Based Assistance Contracts

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Notice.

**SUMMARY:** This **Federal Register** notice provides for the benefit of the public the contents of a HUD notice issued to public housing agencies (PHAs) on December 30, 1998. The December 30, 1998 notice advised PHAs how HUD is calculating the amount of assistance available to them to renew Section 8 rental and certificate and voucher contracts. A recent statutory provision specifies the method for HUD to use in allocating housing assistance available for renewal of these expiring contracts. The statute required HUD to implement the provision through notice not later than December 31, 1998, and to issue final regulations on the subject developed through the negotiated rulemaking process no later than October 21, 1999. In accordance with the statute, the notice was issued on December 30, 1998.

**FOR FURTHER INFORMATION CONTACT:** For further information contact Robert Dalzell, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4204, Washington, DC 20410; telephone (202) 708-1380 (this is not a toll-free number). Persons with hearing or speech impairments may access that number via TTY by calling the Federal Information Relay Service at (800) 877-8339.

#### SUPPLEMENTARY INFORMATION:

##### Background

The statutory provision that provides the foundation for this notice is section 8(dd) of the United States Housing Act of 1937 (the Housing Act of 37) (42 U.S.C. 1437(dd)), as added by section 556(a) of the Quality Housing and Work Responsibility Act of 1998 (Pub. L. 105-276, 112 Stat. 2461, approved October 21, 1998) (QHWRA). The new section 8(dd) directs HUD to establish an allocation baseline amount of assistance (budget authority) to cover the renewals, and to apply an inflation factor (based on local or regional factors) to the baseline. The new provision states as follows:

(dd) *Tenant-Based Contract Renewals.*—Subject to amounts provided in appropriation Acts, starting in fiscal year

1999, the Secretary shall renew all expiring tenant-based annual contribution contracts under this section by applying an inflation factor based on local or regional factors to an allocation baseline. The allocation baseline shall be calculated by including, at a minimum, amounts sufficient to ensure continued assistance for the actual number of families assisted as of October 1, 1997, with appropriate upward adjustments for incremental assistance and additional families authorized subsequent to that date.

The new statute (in section 556(b)) requires HUD to implement section 8(dd) through notice not later than December 31, 1998, and to issue final regulations on this subject that are developed through the negotiated rulemaking process no later than October 21, 1999.

This notice is effective for the allocation of Federal Fiscal Year 1999 assistance used to renew funding increments expiring between January 1, 1999 and December 31, 1999. HUD will develop a final rule implementing the requirements of Section 8(dd) through a negotiated rulemaking process, in accordance with the statutory requirements of section 556. Calendar Year 2000 funding will be allocated in accordance with the final rule.

##### Applicability

This notice applies to renewal of all expiring rental certificate and voucher funding increments administered by Public Housing Agencies (PHAs). This notice does not apply to renewal of expiring Mod Rehab funding increments, to Housing Assistance Payments Contracts that are extended 12 months, or to Offices of Native American Programs and expiring Section 8 contracts administered by Tribally Designated Housing Entities.

##### Determining the Baseline

HUD will determine the number of units leased on October 1, 1997, through information submitted by PHAs documenting their administrative fee (accompanying the Form HUD-52681, Section 8 Voucher for Payment of Annual Contributions and Operating Statement.) Based on this information, HUD will compare the number of units leased to the number of units reserved for the funding increments under the PHA's Annual Contributions Contract (ACC) on October 1, 1997.

The number of units under ACC will be determined as follows: A query of HUDCAPS, the Department's automated accounting system, will provide the number of units under ACC as of October 1, 1997. HUD will add to that number, the additional authorized units as a result of HUD's review of leasing in excess of contract levels conducted in

Federal Fiscal Year 1998 in accordance with letters sent to each affected PHA (See PIH Notice 98-22, issued April 10, 1998). In establishing the baseline number of units to be renewed, HUD will use the higher of the number of ACC units, with adjustments as noted below, or the number of leased units as of October 1, 1997. HUD also will add any additional units, placed under ACC, which were awarded to PHAs from funding available during Federal Fiscal Year 1998, including incremental funding as well as non-incremental funding such as that awarded to sustain assistance to families pursuant to the conversion of project-based assistance to tenant-based assistance. HUD also will add the number of tenant-based units placed under ACC as replacements for expiring Moderate Rehabilitation Housing Assistance Payment Contracts.

##### Determining Annual Cost per Unit

HUD will determine an actual per unit cost from the last year end statement that it has received from each PHA by dividing the total annual contributions earned by the unit months leased. HUD will apply the FY 1999 Section 8 Housing Assistance Payments Program Contract Rent Annual Adjustment Factors from Table 2, published in the **Federal Register** on September 24, 1998, to inflate the per unit cost from 1998 to 1999. If the last closed year end is before 1998, HUD will use a factor of 2.5 percent to inflate the per unit cost per year to 1998. The inflated, monthly per unit cost will be rounded and multiplied by 12 months. In addition, HUD will add \$5 per unit to fund an estimated increase in the administrative fee authorized in the QHWRA.

##### Determining the Budget Authority To Be Allocated

The Department will multiply the number of units for each PHA that are expiring during Calendar Year 1999 by the cost per unit, as determined in accordance with the paragraph above. HUD will assign renewal funding sufficient to cover a 12-month term for units expiring within each quarter (e.g., the fund assignment for the first quarter of calendar year 1999 will fund all units expiring from January 1, 1999 through March 31, 1999). In addition, the Department will fund the difference based on the comparison between the units under ACC, and leased units as of October 1, 1997, using the established per unit cost.

##### Renewal Funding Available

The budget authority that will be allocated is subject to the availability of

appropriations. HUD anticipates that sufficient funding is available to fully fund each PHA in accordance with this notice.

**Catalog**

The Catalog of Federal Domestic Assistance numbers for the programs affected by this notice are 14.855 and 14.857.

**Authority:** 42 U.S.C. 1437f(dd).

Dated: February 9, 1999.

**Deborah Vincent,**

*General Deputy Assistant, Secretary for Public and Indian Housing.*

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