



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

Special Attention of:
Directors of HUD Regional and Field
Offices of Public Housing;
Agencies that Administer the
Housing Choice Voucher Program

Notice PIH 2022-18 (HA)

Issued: June 13, 2022

Expires: This notice remains in effect until
amended, superseded, or rescinded.

Cross References: PIH Notice 2021-08
PIH Notice 2015-17

**SUBJECT: Use of Housing Choice Voucher (HCV) and Mainstream Voucher
Administrative Fees for Other Expenses to Assist Families to Lease Units**

1. **Purpose.** This notice provides guidance on the use of HCV and Mainstream voucher ongoing administrative fees for expenses related to assisting HCV and Mainstream Voucher families to lease units, including the costs of security deposit assistance and landlord incentive and retention payments.

This notice supersedes section 3 of PIH Notice 2015-17 with respect to the description of the restricted use of administrative fees.

2. **Background.** Administrative fees are authorized under Section 8(q) of the United States Housing Act of 1937, which provides that the Secretary shall establish fees for the costs of administering tenant-based rental assistance under the HCV program. Section 8(q) set forth the calculation for use in fiscal year 1991, and further provided that for subsequent fiscal years the Secretary would establish the amount of the fee based on changes in wage data or other objectively measurable data that reflects the costs of administering the program as determined by the Secretary. Administrative fees are covered by the HCV program regulations at 24 CFR 982.152.

For a number of years Congress has in HUD's appropriations Acts overridden the provisions of Section 8(q). Most recently, the Consolidated Appropriations Act, 2022 (Public Law 117-103, referred to throughout this notice as "the 2022 Act"), enacted on March 15, 2022, provides \$2,410,612,000 for both administrative and "other expenses" of public housing agencies (PHAs) in administering the HCV program. The 2022 Act further provides that no less than \$2,380,612,000 of the amount provided in the administrative fee paragraph shall be allocated to public housing agencies for the calendar year 2022 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). In addition, if the amounts made available are insufficient, the 2022 Act allows the Secretary to decrease the fees allocated to agencies by a uniform percentage applicable to all agencies.

Prior to this notice, HUD has not previously provided guidance on which activities qualify as eligible “other” expenses. It has become increasingly clear, however, that in some rental markets, PHAs have needed to employ strategies and undertake activities beyond the mandatory administrative responsibilities to facilitate the successful leasing and use of housing vouchers by families, such as through the use of security deposit assistance and landlord recruitment and incentive payments.

Recognizing these challenges, HUD has, consistent with express congressional authorization in various acts, permitted certain funding to be used for other expenses beyond administrative expenses. Specifically, PHAs administering the Emergency Housing Voucher (EHV) program are permitted to use EHV service fees to increase landlord recruitment efforts through landlord incentive payments and to assist families with some of their up-front costs such as security deposits. PHAs were also permitted to use CARES Act (Public Law 116-136) administrative fees and FY 2020 administrative fees (which under the CARES Act operated under the same flexibilities as the CARES Act administrative fees) for landlord incentive payments for their regular HCVs and Mainstream vouchers. PHAs are also permitted to use their Unrestricted Net Position (UNP, commonly referred to as the PHA administrative fee reserve) for these expenses.

Given the number of tight and competitive rental markets around the country, the use of these strategies is increasingly becoming necessary to help families lease units. HUD has therefore revisited its current guidance on the eligible uses of administrative fees to determine if PHAs interested in implementing or expanding such activities could use administrative fee funding to cover these costs. HUD has determined that PHAs may use ongoing administrative fee funding for the activities described in this notice as they qualify as “administrative and other expenses in administering the section 8 tenant-based rental assistance program” under paragraph 3 under the heading “Tenant-Based Rental Assistance” (TBRA) in the 2022 Act. Furthermore, these costs will remain eligible administrative fee expenses in future years provided the appropriations Act language continues to include “other” expenses as an eligible use of administrative fee amounts. Consequently, HUD is providing updated guidance on the eligible use of administrative fees through this notice. If there are substantive changes in future appropriations Acts impacting the eligible uses of administrative fees, HUD will revise this notice.

- 3. Eligible Uses of HCV Administrative Fees.** Under the appropriations Act, the eligible uses of HCV administrative fees include both (1) costs incurred by a PHA in carrying out administrative responsibilities under HCV program regulations and (2) other eligible expenses in administering the program which are described in this Notice:

- a. Administrative activities.** These activities include front-line, day-to-day operational activities including but not limited to applicant intake, lease-up activities, income determinations and reexaminations, unit inspections, disbursing HAP to landlords, as well as policy and operational planning and implementation, financial management, and HCV record-keeping and reporting. These activities also include the indirect overhead activities associated with operating the HCV program including but not limited to PHA management, human resources, legal, finance, accounting and payroll, information technology, procurement, and quality control. PHAs that operate using HUD's asset management central office cost center (COCC) are permitted to charge the HCV program to recover its central office costs, and those costs are eligible expenses of HCV administrative fees.

Administrative activities also include housing search assistance activities such as pre-move counseling, helping a family identify and visit potentially available units during their housing search, helping a family find a unit that meets the household's disability-related needs, providing transportation and directions, and assisting with the completion of rental applications. These activities also include post-lease up activities often related to housing search assistance efforts, such as post-move counseling and landlord/tenant mediation. These activities cover HCV owner recruitment and outreach activities, including the costs associated with materials or webpages specifically geared to owners, as well as landlord liaison staff and associated expenses.

- b. Other eligible activities.** PHAs are responsible for carrying out all their administrative responsibilities under the program. In addition to its typical administrative costs, a PHA may choose to incur other expenses for activities designed to help assist HCV families in leasing units under the program, which while not required by HUD HCV regulations, clearly will assist the PHA in achieving the mission and purpose of the HCV program. A PHA may use its administrative fees to support these other activities, including to recruit and retain owners to participate in the HCV program, should it have the resources available to do so.

When undertaking these activities, a PHA must first adopt a policy in the PHA administrative plan that governs the terms and conditions of the activity, including any limitations or eligibility criteria for these activities (e.g., to support families leasing units in areas of opportunity, or to support vulnerable populations such as homeless families, etc.). PHAs are reminded that they may not create policies, criteria, or methods of administration that result in discrimination against individuals with protected characteristics under fair housing and civil rights laws and regulations. As such, PHAs need to provide reasonable accommodations when necessary to policies established for these

activities to ensure equal access to their programs and activities by individuals with disabilities. In addition, PHAs need to ensure policies, criteria, and the administration thereof, provides meaningful language access for persons with Limited English Proficiency (LEP).

Other eligible expenses related to the leasing of units and recruitment/retention of HCV owners are as follows:

- i. Owner incentive and/or retention payments.** The PHA may make incentive (e.g., signing bonuses) or retention payments to owners that agree to initially lease their unit to an HCV family and/or renew the lease of an HCV family. If a PHA chooses to offer incentive or retention payments, it must adopt a policy that governs when the offer of such payments is appropriate. The PHA may design the owner incentive payments to meet its specific needs (such as limiting the incentive payments to new owners or owners in high opportunity neighborhoods or structuring all or part of the payment as a damages or unpaid rent mitigation fund, where the owner receives the mitigation payment only if the security deposit is insufficient to cover damages and other amounts owed under the lease). The PHA may choose to condition the offer of the owner incentive/retention payment on the owner's agreement to abide by certain terms and conditions. For example, these conditions may include working with the PHA (or intervention services providers partnering with the PHA) should lease violations or other tenant-related issues arise during the assisted tenancy before taking action to evict the tenant.

Owner incentive/retention payments are typically made as a single payment at the beginning of the lease term (or at lease renewal if a retention payment). However, PHAs may establish the frequency upon when such payments may be made with the exception that owner incentive payments may not be made on an ongoing monthly basis. Owner incentive payments are not housing assistance payments, nor can they effectively serve to supplement ongoing, monthly housing assistance payments. Owner incentive payments are not part of the rent to owner, nor are they taken into consideration when determining whether the rent for the unit is reasonable.

If the PHA chooses to make incentive payments over time to the owner (rather than a single payment) any agreement or understanding between the PHA and the owner must be separate and apart from the housing assistance payments (HAP) contract, and the HAP contract may not be conditioned or amended to make any reference to that agreement or any future landlord incentive or retention payment.

- ii. **Security deposit assistance.** The PHA may provide security deposit assistance for the family. The amount of the security deposit assistance may not exceed the actual security deposit required by the owner or the maximum security deposit allowed under applicable state and/or local law. The PHA may pay the security deposit directly to the owner or may pay the assistance to the family provided the PHA verifies the family paid the security deposit.¹ The PHA may place conditions on the security deposit assistance, such as requiring the owner or family to return the security deposit assistance to the PHA at the end of the family's tenancy (less any amounts retained by the owner in accordance with the lease). Security deposit assistance returned to the PHA remains restricted to HCV administrative fee eligible uses (if returned before the end of the PHA fiscal year in which the administrative fee used to fund the deposit was received) or HCV administrative fee reserve eligible uses, as applicable.

- iii. **Utility deposit assistance/utility arrears.** The PHA may provide utility deposit assistance for some or all of the family's utility deposit expenses. Assistance can be provided for deposits (including connection fees) required for the utilities to be supplied by the tenant under the lease. The PHA may choose to pay the utility deposit assistance directly to the utility company or may pay the assistance to the family, provided the PHA verifies the family paid the utility deposit.² The PHA may place conditions on the utility deposit assistance, such as requiring the utility supplier or family to return the utility deposit assistance to the PHA at such time the deposit is returned by the utility supplier (less any amounts retained by the utility supplier.) In addition, some families may have large balances with gas, electric, water, sewer, or trash companies prior to admission to the HCV program that will make it difficult if not impossible to establish services for tenant-supplied utilities. The PHA

¹ If the PHA chooses to provide the security deposit assistance to the family, the family must sign an agreement that the family will use the assistance for the security deposit, and that if any or all of the assistance is not used for a security deposit, it will be returned promptly to the PHA. The agreement must also require the family to acknowledge they have been informed that any amounts not returned to the PHA (including any requirements related to the return of the security deposit assistance at the end of the family's tenancy) are amounts owed to the PHA in connection with the Section 8 program, and consequently would be grounds for denial or termination from the HCV program in accordance with 24 CFR part 982.552(c)(1)(v). The family must sign similar agreements for other actions under this section if the PHA chooses to make the assistance available to the family (such as utility deposits). Failure to repay such amounts would be grounds for denial or termination of assistance, but it would be at the PHA's discretion as to take such action, and the family would have the right to an opportunity for an informal hearing (for a termination action) or informal review (for a denial of admission) in accordance with 24 CFR 982.554 or 982.555, as applicable.

² If the PHA chooses to provide the utility deposit assistance directly to the family, the family must sign an agreement, as discussed in footnote #1.

may also provide the family with assistance to help address these utility arrears to facilitate leasing and their admission to the HCV program.

Utility deposit assistance that is returned to the PHA remains restricted to HCV administrative fee eligible uses (if returned before the end of the PHA fiscal year in which the administrative fee used to fund the deposit was received) or HCV administrative fee reserve eligible uses, as applicable.

- iv. **Application fees/non-refundable administrative or processing fees³/refundable application deposit assistance/broker fees.** The PHA may choose to assist the family with some or all of these expenses and may limit the amount of assistance provided for each individual expense.
- v. **Holding fees.** In some markets, it is not uncommon for an owner to request a holding fee that is rolled into the security deposit after an application is accepted but before a lease is signed. The PHA may cover part or all of the holding fee for units where the fee is required by the owner after a tenant's application has been accepted but before the lease signing. The PHA and owner must agree how the holding fee gets rolled into the deposit and under what conditions the fee will be returned. Furthermore, owners need to accept responsibility for making needed repairs to a unit required by the initial housing quality standards (HQS) inspection and can only keep the holding fee if the family is at fault for not entering into the lease.
- vi. **Renter's insurance if required by the lease.** The PHA may assist the family with some or all of the cost of renter's insurance but only in cases where the purchase of renter's insurance is a condition of the lease and is also required of unassisted families on the premises. PHAs need to exercise caution with respect to the frequency of when the renter's insurance assistance payments are made when such assistance is provided directly to the family.⁴ For example, providing such assistance on a regular, recurring basis (such as on a monthly basis) to the family would impact the family's income calculation.

Funds in the PHA administrative fee reserve may also be used for any of the above activities. In addition, the PHA may use outside sources of funds to cover these activities provided that these activities are eligible uses of those funds. Outside sources

³ In some markets, non-refundable administrative fees are becoming more common as states pass laws limiting application fees, or as an alternative to refundable deposits.

⁴ If the PHA chooses to provide the renter's insurance assistance directly to the family, the family must sign an agreement, as discussed in footnote #1.

of funds would include non-restricted Federal funds, eligible State or local funds, and donations from philanthropic parties. For PHAs participating in the Moving-to-Work (MTW) program, fungible Public Housing Operating and Capital funds are also acceptable sources of funds for these activities (in accordance with MTW program requirements). Except for MTW PHAs, HCV housing assistance payments (HAP) funding may not be used to pay for these activities.

4. **Mainstream Voucher Administrative Fees – Other Expenses.** Paragraph (4) under the TBRA heading in the 2022 Act, which provides HAP and administrative fee funding for Mainstream vouchers, also makes reference to “other” expenses. Specifically, paragraph (4) provides that “administrative and other expenses of public housing agencies in administering the special purpose vouchers shall be funded under the same terms and be subject to the same pro rata reduction as the percent decrease for administrative and other expenses to public housing agencies under paragraph (3) of this section...” Consequently, PHAs are also authorized to use Mainstream administrative fees for the other eligible activities listed in section 3.b of this notice to assist Mainstream voucher families to lease units. Mainstream administrative fees may only be used for Mainstream vouchers. PHAs may not use Mainstream administrative fees to cover administrative expenses or other expenses of the PHA in administering regular vouchers or other special purpose vouchers. Likewise, PHAs may not use regular HCV administrative fees to cover Mainstream voucher administrative expenses or other expenses of the PHA in administering Mainstream vouchers. As is the case for regular HCV HAP funding, Mainstream HAP funding may not be used to pay for any of these other activities.

5. **Reporting Other Expenses in the Voucher Management System (VMS) and Financial Assessment Subsystem for Public Housing (FASS-PH)/Financial Data Schedule (FDS).**

- a. **VMS reporting.** The new authorized expenses listed in this notice that are incurred by the PHA each month and paid with ongoing administrative fees are reported as part of the total expenses in the VMS “Administrative Expense” field. There is no separate field currently for reporting these other expenses.
- b. **FDS reporting.** In general, the new authorized expenses listed in this notice are reported on FDS Line 92400 Tenant services – other. However, with respect to the fees used for deposits, a PHA may account for these deposits in different ways: as an expense to a balance sheet only transaction, or with the cash outlay for the deposits treated as an accounts receivable and allowance for doubtful accounts being established. The accounting treatment is typically based on the PHA’s and its auditor’s interpretation of Generally Accepted Accounting Principles (GAAP) for these deposit transactions and individual state law, with only limited deposits ever coming back to the PHA. Therefore, HUD will not

require any specific FDS reporting for ongoing administrative fees used for deposits as long as the accounting and reporting conforms to GAAP.

For information on financial reporting requirements for HCVs and Mainstream vouchers that are submitted through FASS-PH and VMS, please see PIH Notice 2021-08.

6. **Paperwork Reduction Act.** The information collection requirements contained in this Notice have been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. §§ 3501-3520) and have been assigned the following OMB control numbers - Voucher Management System: 2577-0169; Financial Assessment Subsystem: 2535- 0107. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.
7. **Further Information.** Questions concerning this notice should be submitted by email to the following Office of Housing Voucher Programs mailbox: HCVUtilization@hud.gov.

/s/
Dominique Blom
General Deputy Assistant Secretary for
Public and Indian Housing