U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Special Attention: Directors, Offices of Public Housing; Administrators, Offices of Native American Programs, Offices of Housing; Section 8 Public Housing Agencies and Indian Housing Authorities	Interim Notice PIH 96-61 (HA) Issued: August 6, 1996 Expires: December 31, 1996 Cross References:

Subject: Tenant-Based Rental Vouchers or Certificates for Unassisted Low Income Residents of Preservation Eligible Projects Approved for Prepayment of the Mortgage or Voluntary Termination of the Mortgage Insurance

1. Purpose. This notice alerts public housing agencies and Indian housing authorities (HAs) that in Federal Fiscal Year 1996 the Department of Housing and Urban Development (HUD) will provide funds for Section 8 voucher and certificate tenant-based assistance for unassisted low-income residents of preservation eligible projects where the owner elects to prepay the mortgage or is approved for voluntary termination of a mortgage insurance contract. The notice also provides information on the statutory requirements governing these special rental vouchers and certificates.

2. Background. The Balanced Budget Downpayment Act II of 1996 (P.L. 104-134, 110 Stat. 1321) provides that subject to the availability of appropriated funds, an unassisted low-income family residing in an eligible preservation project on the date of the owner's prepayment or voluntary termination must be offered tenant-based assistance under section 8 if, as the result of a rent increase no later than one year after the date of the owner's prepayment or voluntary termination, the family's rent exceeds thirty percent of adjusted income. The law establishes special requirements concerning the minimum amount of family contribution towards rent and the voucher payment standard or certificate Fair Market Rent (FMR) that is used to compute subsidy for these families.

Rental vouchers and certificates under this notice are only offered to low-income families (which includes very low-income families) that are unassisted at the time of the prepayment or voluntary termination. The Department will follow existing procedures for providing continued rental assistance to all families currently receiving Section 8 tenant-based or project-based assistance in the affected projects.

Tenant-based assistance will be offered to residents of projects covered by the Emergency Low-Income Housing Preservation Act of 1987 (ELIHPA) and the Low Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA). HUD's Office of Housing will identify eligible projects for assistance under these provisions. To be considered an eligible project, the project must have:

(a) a market rate mortgage insured or held by HUD under the 221(d)(3) program with rental supplement or Section 8 Loan Management Set Aside;

(b) a below market interest rate mortgage insured or held by HUD under the 221(d)(3) program;

(c) a mortgage held, insured or otherwise assisted by HUD, the state or a state housing agency under Section 236;

(d) a purchase money mortgage formerly insured under Section 221(d)(3) or 236 and now held by HUD; or

(e) a mortgage held by a state agency as a result of a sale by HUD without insurance, which immediately before the sale would have been eligible low-income housing under LIHPRHA; which mortgage (1) for LIHPRHA projects is, or is within 2 years of being, eligible for prepayment by contract or regulation in effect before February 5, 1988 without HUD's prior approval; or (2) for ELIHPA projects is, or is within 1 year of being, eligible for prepayment under regulation or contract in effect before February 5, 1988.

3. HUD State and Area Offices will Contact HAs. HUD's Office of Public and Indian Housing and the Office of Housing will shortly issue detailed instructions regarding the funding made available for this purpose and the specific procedures for the reservation of funds, execution of the ACC and the draw-down of funds. The HUD State or Area Office of Public Housing will contact an appropriate HA with jurisdiction in the area where each eligible project is located to determine if the HA is willing to administer the tenant-based voucher or certificate assistance for the eligible families living

in each affected development. The HUD State or Area Office decides which HA is the appropriate agency to administer the tenant-based rental assistance.

4. Family Eligibility for the Special Rental Vouchers or Certificates.

(A) Low-Income Family.

(1) In order to be eligible for one of these rental vouchers or certificates, the family must be an unassisted low-income family (which includes a very low-income family) residing in the eligible project on the date of the prepayment or the voluntary termination. Upon owner notification of intent to prepay the mortgage or terminate the insurance, and confirmation from the appropriate HA that it will administer the assistance, the HUD State or Area Office of Housing will send each unassisted low-income family in the affected project a letter identifying the administering HA and describing the circumstances under which the family may qualify for one of these special rental vouchers or certificates. The letter will ask the family to contact the HA if all the conditions for eligibility are met. (The additional conditions of eligibility are discussed below.)

The HUD State or Area Office of Housing will send the administering HA a list identifying the potentially eligible unassisted low-income families and the rents in the eligible project on the date of the prepayment or voluntary termination. The family, however, is ultimately responsible for contacting the administering HA if the owner decides to increase the family's rent so that the family is eligible for the rental voucher or certificate. Families on the list provided by HUD may or may not meet the eligibility criteria or elect to apply for the rental voucher or certificate.

(2) When the family contacts the HA, the HA must determine if the family still meets the definition of a low-income family. (In accordance with the program regulations at §982.201(e), the HA must receive information verifying that an applicant is eligible within the period of 60 days before the HA issues a certificate or voucher to the applicant.) The HA compares the family's current annual income (gross income) with the HUD-established low-income limit for the area. A low-income family

is a family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families.

(B) Rent Increase Effective No Later Than One Year After the Date of Prepayment or Voluntary Termination that Results in Family Paying More than 30 Percent of Adjusted Income for Rent.

A low-income unassisted family is only eligible for one of the special rental vouchers or certificates if:

(a) A rent increase will take effect no later than one year after the date of the prepayment or voluntary termination and

(b) The family's new post-increase gross rent would exceed thirty percent of the family's adjusted monthly income.

A low income family that is already paying more than 30 percent of adjusted monthly income for gross rent at the date of the prepayment or termination qualifies for the certificate or voucher if the owner has proposed to increase the rent in the year following the prepayment or termination, and the increased rent would exceed thirty percent of adjusted income.

To qualify for issuance of special preservation tenant-based assistance, the rent increase must be effective no later than one year after the date of the prepayment or voluntary termination. A family does not qualify for special tenant-based assistance based on a rent increase that would be effective after the one year anniversary date of the prepayment or voluntary termination.

Gross rent is the sum of the rent payable to the owner and any utility allowance. (If the proposed contract rent does not include all the utilities, the utility allowance schedule of the administering HA is used to calculate the new gross rent of the unit.) The family must present documentation confirming that the owner intends to increase the rent, and the amount of the new rent after the increase (e.g., the owner's rent increase notice or a letter from the owner indicating the owner intends to increase the rent and the amount of the rent demanded by the owner).

When the family contacts the administering HA, the HA must determine that the family would be paying more than 30 percent of adjusted monthly income for gross rent after the owner's rent increase takes effect. If the family would not have to pay more than 30 percent of adjusted monthly income for gross rent after the rent increase, the family is not eligible to receive a rental voucher or certificate under this notice.

(C) Issuance of Certificate or Voucher.

Before issuing a certificate or voucher to the family, the HA must determine if the family wants to stay in its present unit.

If a family chooses to move from its present unit, the HA may issue either a certificate or voucher to the family.

If the family chooses to stay in the family's present unit and if the owner's proposed gross rent is equal to or exceeds the HA voucher payment standard for the family unit size, the HA may provide assistance under the voucher program or the certificate program. However, if the family chooses to stay in the family's present unit, and if the proposed gross rent for the family's present unit is less than the HA voucher payment standard for the family unit size, the HA may only provide assistance under the certificate program.

5. Special Conditions: The Payment Standard/FMR and Minimum Amount of Family Contribution.

(A) First year only.

There are several special requirements for the preservation certificates and vouchers. These special requirements only apply during the first year of assistance. In all other respects the certificates and vouchers are subject to normal program rules. If a certificate or voucher turns over during or after the first year of assistance, the funding will be used for the HA's regular tenant-based program and will be subject to the normal program rules.

(B) Payment Standard and Fair Market Rent Where the Family Chooses to Stay in the Same Unit.

(1) Staying in same unit: Certificate program.

In general, for a family staying in the same unit with assistance under the certificate program, the HA may approve the proposed gross rent if the proposed gross rent (rent to owner plus any utility allowance) of the unit rented by the family is reasonable in comparison with rents for comparable unassisted units in the market area, even if the proposed gross rent exceeds the otherwise applicable FMR/exception rent limit for the unit rented by the family. (Note, however, the effect of the family unit size limitation discussed below.)

(2) Staying in same unit: Voucher program.

For a family staying in the same unit with assistance under the voucher program, the payment standard used to calculate the voucher housing assistance payment is:

(a) the gross rent of the family's unit; or

(b) if the family unit size on the voucher is smaller than the actual unit size, the HA payment standard for the family unit size.

The gross rent must be reasonable. If the rent is reasonable, the HA compares the rent to the HA payment standard. The HA may only provide voucher assistance to stay in the family's present unit if the gross rent is equal to or exceeds the HA payment standard for the family unit size. If the HA payment standard for the family unit size is higher than the gross rent, the HA must give the family a certificate.

(3) Effect of family unit size limitation.

The HA issues the eligible family the certificate or voucher based on the HA subsidy standards, not on the actual size of the unit the family is presently occupying. If a family qualifies under the HA subsidy standards for a smaller family unit size than the actual size of their current unit, the regulatory requirements at §982.402(c) regarding the effect of the family unit size on the maximum subsidy are applicable:

(i) For assistance under the certificate program, the sum of the initial contract rent plus any utility allowance (gross rent) may not exceed the FMR/exception rent limit for the family unit size.

Example: If the family qualifies under the HA subsidy standards for a one bedroom certificate and the actual unit size is a two bedroom, the proposed gross rent may not exceed the one bedroom FMR/exception rent limit.

(ii) For assistance under the voucher program, the payment standard for the family may not exceed the payment standard for the family unit size.

Example: If the family qualifies under the HA subsidy standards for a one bedroom voucher and the actual unit size is a two bedroom, the payment standard will be the HA one bedroom payment standard, as opposed to the gross rent of the unit. (Note the family may not be issued a voucher to stay in the unit if the proposed gross rent is less than the one bedroom payment standard.)

(4) Move: Normal PS or FMR Applicable.

In all cases where the family decides to move, the regular HA payment standard or the FMR\exception rent limit is applicable.

If the proposed assisted rent for the family's current unit in the preservation project is not reasonable in relation to comparable units, the family must move in order to receive tenant-based assistance.

(C) Minimum Rent.

(1) Old gross rent.

Regardless of whether the family stays or moves, the law requires that a family must pay for rent no less than the gross rent the family was paying on the date of the prepayment or the voluntary termination.

The HA utility allowance is used to calculate the gross rent for the unit and for the HAP calculation.

(2) Voucher program.

For a family assisted under the voucher program that is staying in its present unit and the family unit size on the voucher is not smaller than the actual unit size, the housing assistance payment will equal the new gross rent for the unit minus the greatest of:

(a) 30 percent of the adjusted family income;

(b) 10 percent of the family monthly income (gross monthly income); or

(c) the gross rent the family was paying on the date of the prepayment or voluntary termination.

For a family assisted under the voucher program that is (1) moving from the unit or (2) is staying in the unit but the family unit size on the voucher is smaller than the actual unit size, the housing assistance payment equals the lesser of:

(a) The HA payment standard minus 30 percent of the adjusted family income; or

(b) The gross rent of the family's unit minus the greater of:

(1) 10 percent of the family monthly income (gross monthly income); or

(2) The gross rent the family was paying on the date of the prepayment or voluntary termination.

(3) Certificate program.

For a family assisted under the certificate program, regardless of whether the family stays in the unit or moves, the total tenant payment for the family is the greatest of:

(a) 30 percent of family monthly adjusted income;

(b) 10 percent of family monthly income (gross monthly income);

(c) Welfare rent in as-paid states; or

(d) The gross rent the family was paying on the date of prepayment or voluntary termination.

Examples demonstrating how these special conditions affect the rent calculations for a certificate family and a voucher family are attached to this notice.

(D) Normal Program Requirements. The special conditions regarding the family's minimum contribution and the higher payment standard/FMR for stayers remain in effect for the first twelve months the family receives the rental voucher or certificate assistance. At the end of the initial year of assistance the normal program requirements of the rental voucher or certificate program will apply, since the tenant-based assistance will be renewed through regular program funding.

HAs will earn the same ongoing fee and preliminary fee for these certificates and vouchers as they do under the regular program rules. The special certificates and vouchers will increase the minimum size of the HA's Family Self-Sufficiency (FSS) program.

6. Further Information. Any questions regarding this notice should be addressed to the Operations Division, Office of Rental Assistance, at (202) 708-0477.

/s/

Kevin Emanuel Marchman, Acting Assistant
Secretary for Public and Indian Housing

Examples of Rent Calculations for Preservation Vouchers and Certificates for Stayers

Certificate Program

The Smith family is in a 2 bedroom unit and is issued a 2-bedroom certificate under the HA subsidy standards.

Contract Rent at Prepayment =	$370
Utility Allowance =	$50
Gross Rent paid by Family at Prepayment =	$420

2BR FMR/exception rent limit=	$525
1BR FMR/exception rent limit=	$430
Proposed Contract Rent =	$580
Utility Allowance =	$50
Proposed Gross Rent (is reasonable) =	$630

30% of monthly adjusted income =	$290
10% of total monthly income=	$110

A. Rent Limitation

1. The proposed rent is reasonable.
2. The actual unit size is not larger than the family unit size. Therefore, the proposed rent is acceptable. If the family moves, the regular FMR/exception rent limits apply.

   The Smith family wishes to stay in their current unit. Since the proposed gross rent is reasonable, the HA approves the rent, even though it exceeds the FMR/exception rent limit.

   Note: If the Smith family only qualified for a one bedroom certificate, the Smith family would have to move to receive assistance since the one bedroom FMR/exception rent limit of $430 would be applicable.

B. Total Tenant Payment

TTP = $420 Since the family must pay at least the gross rent it was paying on the date of prepayment, the TTP for the Smith family is $420, even though 30% of monthly adjusted income is only $290.

C. Rent Calculation

Contract Rent to Owner =	$580
Utility Allowance=	$50
Gross Rent (CR + UA)=	$630
TTP (greater of gross rent family was paying at prepayment, 30% adjusted monthly income, 10% gross monthly income, or welfare rent in as-paid states) =	$420
Tenant Rent (TTP - UA) =	$370
HAP (CR - TR) =	$210

Voucher Program

The Jones family is in a 2 bedroom unit and is issued a 2 bedroom voucher under the HA subsidy standards. The Jones family will stay in its current unit.

Contract Rent at Prepayment =	$370
Utility Allowance =	$50
Gross Rent Paid by Family at Prepayment =	$420
2BR Payment Standard =	$495
Proposed Contract Rent =	$580
Utility Allowance =	$50
Proposed Gross Rent =	$630 (is reasonable)
30% of adjusted monthly income =	$290
10% of gross monthly income =	$110

Payment Standard

Payment Standard Determination Steps For Stayers

1. Proposed rent must be reasonable.
2. Is proposed gross rent ($630) equal to or greater than HA payment standard for family unit size ($495)? If not, issue certificate.
3. Is actual unit size greater than the family unit size on the voucher? If no, proposed gross rent is payment standard. If yes, use HA payment standard for family unit size on voucher.

Short-Cut Voucher Subsidy Calculation for Stayer where Payment Standard is Gross Rent.

a. Proposed Gross Rent = $630

b. minus greatest of 30% adjusted monthly income ($290); 10% gross monthly income ($110) or gross rent paid by family at prepayment ($420)= $420

c. Housing Assistance Payment = $210

Voucher Subsidy Calculation (Long Form)

A.	Payment Standard =	$630
B.	30% of Adjusted Monthly Income =	$290
C.	Maximum Subsidy (A-B) =	$340
D.	HA Utility Allowance=	$50
E.	Rent to Owner=	$580
F.	Gross Rent (D+E)=	$630
G.	Gross Rent less Maximum Subsidy (F-C) =	$290
H.	10% of Total Monthly Income=	$110
I.	Gross Rent at Prepayment=	$420
J.	Minimum Family Contribution (higher of H or I)* =	$420
K.	Total Family Contribution (higher of G or J) =	$420
L.	Gross Rent less Family Contribution (F-K)=	$210
M.	Total Voucher Subsidy (lower of C or L) =	$210
N.	HAP to Owner (lower of E or M) =	$210
O.	Family Rent to Owner (E-N) =	$370
P.	Utility Reimbursement to Family (M-N) =	0

* Regardless of whether the family stays or moves, the minimum family contribution is the greater of 10% of total

monthly income or the gross rent the family was paying on the date of prepayment/termination.

The Greene family is in a 2 bedroom unit and is issued a 1 bedroom voucher under the HA subsidy standards. The Greene family wants to stay in its present unit.

Contract Rent at Prepayment =	$370
Utility Allowance =	$50
Gross Rent Paid by Family at Prepayment =	$420

2BR Payment Standard =	$495
1BR Payment Standard =	$400
Proposed Contract Rent =	$580
Utility Allowance =	$50
Proposed Gross Rent =	$630 (is reasonable)

30% of monthly adjusted income =	$290
10% of gross monthly income =	$110

Payment Standard Determination for Stayers

1. Proposed rent must be reasonable.
2. Is proposed gross rent ($630) equal to or greater than HA payment standard for family unit size ($400)? If no, issue certificate.
3. Is actual unit size greater than the family unit size on the voucher? If no, gross rent is payment standard. If yes, use HA payment standard for family unit size.

Voucher Subsidy Calculation

A.	Payment Standard =	$400
B.	30% of Adjusted Monthly Income =	$290
C.	Maximum Subsidy (A-B) =	$110
D.	HA Utility Allowance=	$50
E.	Rent to Owner=	$580
F.	Gross Rent (D+E)=	$630
G.	Gross Rent less Maximum Subsidy (F-C) =	$520
H.	10% of Total Monthly Income=	$110
I.	Gross Rent at Prepayment=	$420
J.	Minimum Family Contribution (higher of H or I)* =	$420
K.	Total Family Contribution (higher of G or J) =	$520
L.	Gross Rent less Family Contribution (F-K)=	$110
M.	Total Voucher Subsidy (lower of C or L) =	$110
N.	HAP to Owner (lower of E or M) =	$110
O.	Family Rent to Owner (E-N) =	$470
P.	Utility Reimbursement to Family (M-N) =	0

* Regardless of whether the family stays or moves, the minimum family contribution is the greater of 10% of total monthly income or the gross rent the family was paying on the date of prepayment/termination.