



U.S. Department of Housing and Urban
Development

Office of Public and Indian Housing

Special Attention:	Notice	PIH 96-81(HA)
Public Housing Office		
Directors; Administrators,	Issued:	September 30, 1996
Offices of Native American	Expires:	October 1, 1997
Programs; Public Housing and		
Section 8 Housing Agencies;		
and Indian Housing Authorities		

Cross References:

Subject: Public Housing, Indian Housing and Section 8 Fiscal Year 1997 Appropriations Act Provisions, and Extensions of Certain Fiscal Year 1996 Appropriation Act Notices.

1. **Summary:** This Notice describes public housing, Indian housing, and Section 8 administrative provisions required by HUD's Fiscal Year 1997 Appropriations Act enacted on September 26, 1996 as Public Law 104-202. Most of the Fiscal Year 1996 Appropriations Act administrative provisions have been extended one year, until September 30, 1997.

2. **Programs Covered:** This Notice applies to the Public Housing Program, Indian Housing Program, Section 8 Rental Certificate and Voucher Programs, Section 8 Project-Based Certificate Program, and Section 8 Moderate Rehabilitation Program (including the Single Room Occupancy Program and Shelter Plus Care Subcomponent).

3. **Public Housing and Indian Housing Requirements:**

a. The federal preferences suspension; expansion of modernization funding use (including HA/IHA option to use modernization funds for development activities, development funds for modernization activities, and up to 10 percent of modernization and development funds for operations) and assistance for mixed-income developments; suspension of the "one-for-one" replacement housing requirement; ceiling rents; and definition of adjusted income (HA/IHA option to adopt additional adjustments to earned income) legislative provisions that became applicable during federal Fiscal Year 1996 have been extended through September 30, 1997 without change. (Tenant rents based on ceiling rents and earned income adjustments continue in effect until the first reexamination after September 30, 1997.)

Not only has Congress extended rent reforms for an entire year, but HUD has also provided a PFS incentive adjustment to prevent loss of operating subsidy for PHAs/IHAs implementing rent reforms. HAs are urged to adopt

immediately policies to broaden the income mix in public and Indian housing and encourage, attract and retain working families in occupancy. Such policies include adoption of ceiling rents, adoption of earned income adjustments that help make work pay, repeal of federal preferences and adoption of local worker preferences.

b. Each public housing and Indian housing resident (other than a mutual help homebuyer) is required to pay a monthly "minimum rent" of up to \$50, as determined by the HA/IHA. An HA/IHA may set the minimum rent anywhere from \$0 to \$50. (Unless the rent is capped by a ceiling rent, a family must pay the greatest of 30 percent of monthly adjusted income, 10 percent of monthly income, the welfare rent, or any minimum rent of up to \$50.) Changes to the current minimum rent policy must be implemented by amending the HA/IHA Admission and Occupancy Policy; a copy of Board (or equivalent governing body) resolution adopting a new minimum rent must be provided to the HUD field office promptly after passage. HAS/IHAS that implement a minimum rent are encouraged to consider adopting a policy that provides for hardship exemptions for classes of families (e.g., homeless individuals with minimal income, families with minimal income awaiting determination of eligibility for public assistance, families with minimal income in States without General Assistance benefits, elderly families ineligible for Supplemental Security Income (SSI) benefits, and large families with minimal income in States with particularly low Temporary Assistance to Needy Families benefits). The minimum rent requirements described in this Notice are only applicable to federal Fiscal Year 1997 (October 1, 1996 through September 30, 1997) unless there is subsequent minimum rent legislation.

c. The authority to waive the minimum rent to provide a transition period for affected families described in Notice PIH 96-42(HA) issued June 20, 1996 and in Section VII of the August 9, 1996 Federal Register Notice of Implementation of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 is repealed. This authority is unnecessary in view of the additional flexibility regarding minimum rents that is described above.

4. Section 8 Certificate, Voucher and Moderate Rehabilitation Requirements:

a. The federal preferences suspension; three month reissuance delay of turnover certificates and vouchers; "take-one, take-all" suspension; "endless lease" elimination; suspension of the owner termination notice to HUD; and setting of FMRs based on the 40th percentile of rental distributions of standard quality rental units legislative provisions that became applicable during federal Fiscal Year 1996 have been extended through September 30, 1997 without change. (Federal preferences generally do not apply to the SRO moderate rehabilitation program or the shelter plus care SRO subcomponent.)

b. Each Section 8 participant (including a SRO participant) is required to pay a monthly "minimum rent" of up to \$50, as determined by the HA. An HA may set the minimum rent anywhere from \$0 to \$50. (For example, a certificate and moderate rehabilitation family must pay the greatest of 30 percent of monthly adjusted income, 10 percent of monthly income, the welfare rent, or any minimum rent of up to \$50.) Changes to the current minimum rent policy must be implemented by revising the HA administrative plan; the HA must notify the HUD field office immediately if they elect to implement a new minimum rent. HAs that implement a minimum rent are encouraged to consider adopting a policy that provides for hardship exemptions for classes of families (e.g., homeless individuals with minimal income, families with minimal income awaiting determination of eligibility for public assistance, families with minimal income in States without General Assistance benefits, and large families with minimal income in States with particularly low Temporary Assistance to Needy Families benefits). The minimum rent requirements described in this Notice are only applicable to federal Fiscal Year 1997 (October 1, 1996 through September 30, 1997) unless there is subsequent minimum rent legislation.

c. The authority to waive the minimum rent to provide a transition period for affected families described in Notice PIH 96-42(HA) issued June 20, 1996 and in Section VII of the August 9, 1996 Federal Register Notice of Implementation of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 is repealed. This authority is unnecessary in view of the additional flexibility regarding minimum rents that is described above.

d. Beginning October 1, 1996, HAs will earn an ongoing administrative fee for certificates, vouchers and moderate rehabilitation (including SRO and shelter plus care) units based on 7.5 percent of the HUD-determined base amount for the first 600 units for all three programs, and 7 percent of the HUD-determined base amount for each additional unit over 600. HAs will earn an administrative fee for HA-owned certificate, voucher and moderate rehabilitation units based on 3 percent of the base amount for the first 600 units. (The base amounts for all certificate and voucher units will be calculated by HUD using the Fiscal Year 1996 administrative fee procedures that were used for pre-1989 certificate/voucher units, except the percentiles have been lowered from 8.2 percent to 7.5 percent and from 7.79 percent to 7 percent.) The administrative fee amounts for each jurisdiction based on the new law are attached. Further instructions will be provided concerning application of the federal Fiscal Year 1997 administrative fees. The Fiscal Year 1997 Appropriations Act administrative fee changes are permanent law, and the new fee system will be applicable in future years unless there is subsequent administrative fee legislation.

The law also sets preliminary fees at \$500 per unit, but only in the first year an HA administers a tenant-based certificate/voucher program. Preliminary fees have been eliminated for moderate rehabilitation and project-based certificate units. HUD may also approve additional

administrative fees for costs incurred in assisting families who experience difficulty in obtaining appropriate housing and extraordinary costs. (The process for requesting higher administrative fees is outlined in Notice PIH 96-22(HA) issued April 19, 1996.)

e. During Fiscal Year 1997 (October 1, 1996 through September 30, 1997), the contract rent annual adjustment policies for moderate rehabilitation are the same as the policies for housing assistance payments (HAP) contract anniversaries between October 1, 1995 through April 25, 1996. The Fiscal Year 1997 annual adjustment policies for tenant-based certificate units were simplified by eliminating the requirement for a rent reasonableness determination both before and after subtracting .01 from the annual adjustment factor. Instead, rent reasonableness for certificate units need only be determined after subtracting .01 from the annual adjustment factor. During Fiscal Year 1997, HAs should calculate annual adjustments as follows: (1) For moderate rehabilitation units, use the Part A procedures specified in Notice PIH 95-34(HA), Annual Adjustment Factor (AAF) Rent Increase Requirements Pursuant to the Fiscal Year 1995 Appropriations Act, issued June 8, 1995; and (2) For tenant-based certificate units and project-based certificate units apply the Table 2 AAF to the pre-adjusted contract rent and then determine whether the adjusted rent is reasonable. Additional HUD guidance will be issued for annual adjustments for the certificate and moderate rehabilitation programs at a later date.

f. Tenant-based certificates or vouchers will be provided to families living in moderate rehabilitation projects with HAP contracts for 4 or fewer units that expire between October 1, 1996 and September 30, 1997, and to families living in other moderate rehabilitation projects with HAP contracts expiring during Fiscal Year 1997 when the owners do not wish to renew. HUD field office staff should contact the Office of Rental Assistance at (202) 708-0477 for instructions concerning other moderate rehabilitation HAP contracts expiring in Fiscal Year 1997.

5. Extensions of Prior Notices and HUD Implementation Guidance: This Notice extends until October 1, 1997 the applicable portions of the following Notices and HUD implementation guidance previously issued for the statutory provisions that are the subject of this Notice:

- o Notice PIH 96-6(HA), Administrative Provisions of the January 26, 1996 Continuing Resolution Affecting Public and Indian Housing Programs, issued February 13, 1996;

- o Notice PIH 96-7(HA), January 26, 1996 Continuing Resolution Statutory Changes Affecting the Administration of the Section 8 Certificate, Voucher, and Moderate Rehabilitation Programs, issued February 13, 1996;

- o April 8, 1996 Questions and Answers on the January 26, 1996 Continuing Resolution and HUD Notice PIH 96-7 from MaryAnn Russ to all Office of Public Housing Directors and all Office of Native American Program Administrators;

o Notice PIH 96-23(HA), Omnibus Consolidated Rescissions and Appropriations Act of 1996 Statutory Changes Affecting the Administration of the Section 8 Certificate, Voucher, and Moderate Rehabilitation Programs, issued May 1, 1996;

o Notice PIH 96-24(HA), Performance Funding System Policy Revision to Encourage Public and Indian Housing Authorities to Facilitate Resident Employment and Undertake Entrepreneurial Initiatives, issued April 3, 1996 (the policies in this notice are also contained in the 24 CFR Parts 950 and 990 interim rule on PFS incentives which was published in the Federal Register on September 30, 1996);

o July 26, 1996 Questions and Answers on the January 26, 1996 Continuing Resolution from MaryAnn Russ to all Office of Public Housing Directors;

o Notice PIH 96-56(HA), Policies and Procedures for Using Modernization Funds for Development Activities and Development Funds for Modernization Activities, and Modernization and Development Funds for Operations, issued July 29, 1996; and

o August 9, 1996 Federal Register Notice of Implementation of the Omnibus Consolidated Rescissions and Appropriations Act of 1996.

The above listed Notices and implementation guidance are applicable without change except that the expiration date of September 30, 1996 for most of the legislative requirements is extended to September 30, 1997 (as specified above in this Notice), the minimum rent provisions are revised to substitute "up to \$50" for "\$25 or a higher minimum rent amount set by the HA up to \$50", the administrative fee policies applicable to Fiscal Year 1996 are now obsolete, and some of the cited federal preference and other admission regulatory provisions have been moved to 24 CFR Part 5.

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