



U.S. Department of Housing and Urban Development

Public and Indian Housing

Special Attention of:

Office Directors of Public Housing;
Secretary's Representatives; and Public Housing
Agencies Administering Section 8 Programs.

Notice PIH 2000-49 (HA)

Issued: October 27, 2000

Expires: October 31, 2001

Cross References:

Subject: Housing Choice Voucher Program and Rental Certificate Program: PHA Administrative Fees for Lead-Based Paint Hazard Clearance Tests and Risk Assessments

1. PURPOSE. This Notice provides instructions to public housing agencies (PHAs) and HUD field staff regarding funding for extraordinary administrative fees that the Department will approve to reimburse PHAs administering the housing choice voucher program. These fees will reimburse the PHAs for the costs to conduct risk assessments and lead-based paint hazard clearance tests undertaken for initial occupancy and subsequent annual inspections and special inspections associated with approval and continued assisted tenancy. The PHA may contract directly for clearance testing or reimburse the owner where the PHA chooses to require the owners to contract for this service. The owner shall be responsible for subsequent clearance tests where the initial clearance test failed the unit. The administrative fees identified in this notice are in addition to other special fees approved by HUD field staff pursuant to Notice PIH 2000-28 (HA).

2. APPLICABILITY. This Notice is applicable to all PHAs administering tenant-based assistance under the housing choice voucher program or the certificate program.

3. EFFECTIVE DATE. This Notice is effective upon publication.

4. BACKGROUND. HUD pays PHAs administrative fees for the costs of administering the housing choice voucher program and the certificate program. HUD may approve special PHA administrative fees for the extraordinary costs associated with certain types of "special purposes" in these tenant-based assistance programs. This notice provides for approval of PHA

administrative fees to cover costs of lead based paint risk assessment and clearance testing in connection with the PHA's HQS inspections before and during assisted occupancy. HUD has determined that the clearance testing costs are extraordinary costs that should be covered by increased administrative fees.

The revised HUD lead-based paint regulations were published in the Federal Register on September 15, 1999 (65 Federal Register 50202-50208, 50216-50218 and 54858). The regulations amend 24 CFR Part 35, Subpart M-Tenant-Based Rental Assistance; and also amend 24 CFR 982 401(j) of the housing quality standards (HQS) for the housing choice voucher program..

Under the lead-based paint regulations, the PHA is required to conduct a visual assessment of units occupied or to be occupied by an assisted family with a child under the age of six to determine if the paint is deteriorated.

A clearance test is required where the amount of deteriorated paint exceeds the *de minimis* levels specified in the regulation. *De minimis* levels are defined as deteriorated paint surfaces that are no more than 20 square feet collectively on exterior surfaces or no more than two square feet in any one interior space or room, or no more than 10 percent of the total surface area on an interior or exterior type of component with a small surface area such as window sills, baseboards, and trim. (24 CFR 35.1350(d))

The PHA must conduct a risk assessment of the unit in which the child, under age of six with an environmental intervention blood-lead level (EIBLL), lived at the time the blood was last sampled, unless an evaluation has already been conducted by the public health department. The regulation requires that the PHA, as designated party, conduct a risk assessment within 15 days of being notified by the public health department or other medical health provider that a EIBLL child under age of six resides at a unit assisted by a housing choice voucher or certificate. (24 CFR Part 35.1225)

5. APPROVAL OF ADMINISTRATIVE FEES. HUD will authorize PHAs to use their annual budget authority or ACC program reserves to reimburse PHA costs for LBP clearance testing and risk assessments. Administrative fees will be approved as follows:

- A. Fee for Clearance Testing. HUD will pay the PHA a fee for conducting the initial clearance test that is required by the rule. The PHA will be paid \$150 for the clearance test conducted on a unit occupied by a family with a child under the age of six that has deteriorated paint requiring clearance testing after the owner

completes paint stabilization or repairs where the PHA determines that the *de minimis* levels were exceeded.

The Financial Management Center approves the actual amount to be paid to the PHA based on PHA data reflected on the PHA's year end settlement statement. The PHA must provide a certification of the number of units where a clearance test was completed during the last PHA fiscal year for compliance with the rule (24 CFR 35 Subpart M).

- B. Fee for Risk Assessments. HUD pays the PHA a fee for conducting the risk assessment for a family with an EIBLL child under age six as confirmed by the local health department or other medical health care provider. The PHAs will be paid \$350 each time a PHA conducts a risk assessment in a unit occupied by an EIBLL child under age six identified by the local health department or other medical provider where the blood test was done while the child resided there.

The Financial Management Center approves the actual amount to be paid to the PHA based on PHA data reflected on the PHA's year end settlement statement. The PHA must provide a certification of the number of units where a risk assessment was completed during the PHA fiscal year for compliance with the requirements at 24 CFR Part 35.1130.

6. FAILURE OF UNIT TO PASS INITIAL CLEARANCE TEST. If a unit fails the initial clearance test conducted by the PHA, the owner must repeat the cleanup and all paint stabilization and other repairs not previously completed, and again follow safe work practices. The owner is responsible for any clearance testing after the initial clearance test conducted by the PHA. If the unit fails the initial clearance test conducted by the PHA, the owner is required to pay for the costs of subsequent clearance tests. HUD will not pay any additional administrative fees for that purpose.

The owner must submit the results of the subsequent clearance tests to the PHA and the family. If the unit fails the second clearance testing, the PHA must notify the owner that the family may not lease the unit with assistance under the housing choice voucher program, unless final clearance is achieved. If the unit is under a housing assistance payment (HAP) contract, the PHA must notify the owner that the PHA will abate payments under the HAP contract and that the HAP contract will be terminated once the family is relocated.

7. OTHER ISSUES: OWNERS NOTIFICATION TO PHA OF COMPLETED REPAIRS. In the future, the Department will issue a revised

owner's certification form. Meanwhile the owner must notify the PHA that repairs were completed in accordance with the regulations at 24 CFR Part 35, including safe practices and trained staff, as required, so that the PHA may schedule and undertake a clearance examination. Since the PHA is expected to undertake the clearance examination within 24 hours of the owner's notification that repairs have been completed, the PHA and the owner should arrange the clearance schedule before the work is done to assure a timely clearance examination.

8. FOR FURTHER INFORMATION CONTACT. Inquiries about this notice should be directed to the staff in the Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, at (202) 708-0477.

/s/

Harold Lucas, Assistant Secretary
for Public and Indian Housing