



U.S. Department of Housing and Urban Development

Public and Indian Housing

Special Attention of:

Public Housing Agencies; HUB Directors of Public Housing; PIH Program Center Coordinators; Public Housing Division Directors; and Regional Directors

Notice PIH 2004-02 (HA)

Issued: March 15, 2004

Expires: March 31, 2005

Subject: Excess Utility Consumption Charges Permissible Under the Flat Rent Option for Checkmetered Units.

1. **Purpose.** This Notice establishes the Department's position relative to Public Housing Agencies (PHAs) charging for excess utility consumption under the flat rent option for public housing.
2. **Applicability.** This Notice applies to Public Housing.
3. **Effective Date.** This Notice is effective March 15, 2004.
4. **Background.** The flat rent is based on the market rent charged for comparable units in the private unassisted rental market including the utilities provided by the PHA. Section 3(a)(2)(B) of the United States Housing Act directs PHAs to establish flat rents for their units based on the rental value of the unit as determined by the PHA and in compliance with 24 CFR Section §960.253(b)(2) which specifies the factors that must be considered when determining a flat rent. Further, pursuant to 24 CFR §960.253, a PHA must give public housing families the opportunity to choose between a flat rent or an income-based rent, annually. Families choosing the flat rent option are not provided any utility reimbursement or utility allowance.
5. **Conditions under which PHAs can charge for excess utility consumption under the Flat Rent Option.** Under the statute and regulation 24 CFR §960.253(b) for public housing, a flat rent is "based on the market rent charged for comparable units in the private unassisted rental market." These flat rents must consider and have the cost of the utilities provided by the PHA incorporated into the amount charged as a flat rent for the unit. PHAs may use rent reasonableness data to establish flat rents for their units if they have Section 8 units located in the same neighborhoods as their public housing properties and adjust for differences between the units. PHAs may also choose to have the rents established through other forms of market analysis using census data, surveys, and the expertise of market analysts or appraisers.

The PHA must use a reasonable method to determine the flat rent for the unit. A PHA must also reasonably estimate the level of utility consumption for the type of utilities provided by the PHA that will be used to determine the flat rent for the unit. While flat rents include an estimate for the level of utility consumption, some PHAs have expressed a concern about residents who excessively consume utilities.

Consequently, in instances where a flat rent unit's utility charges exceed the reasonable consumption levels used to determine the flat rent, the PHA may charge for excess utilities if the excess consumption can be documented through checkmetering. At the PHA's discretion, this excess usage may be considered as flat rents are adjusted or in assessing excess utility usage fees against the flat rent family. PHAs are required to notify residents of this policy change. In addition, PHAs should continue to encourage residents to conserve energy and help reduce operating costs.

6. **Information Contact.** Inquiries about this notice should be directed to the appropriate HUD Field Office or Tawanna Preston of the Management and Occupancy Division at (202) 708-0744.

_____/s/_____
Michael Liu, Assistant Secretary
for Public and Indian Housing