



U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

Special Attention of:
Regional and Field Office Directors of Public
Housing; Section 8 Financial Management
Center; Public Housing Agencies Administering
Housing Choice Voucher Programs; Regional
Directors; State and Area Coordinators

Notice PIH 2006-37 (HA)

Issued: September 28, 2006

Expires: September 30, 2007

Cross References:

HUD Notice PIH 2006-12

**Subject: Changes to Disaster Voucher Program (DVP) Operating Requirements –
Family Eligibility and Initial Lease Terms**

1. Purpose.

This Notice revises the DVP Operating Requirements set forth in HUD Notice PIH 2006-12, issued February 3, 2006. These revisions result from Section 7028 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, Public Law 109-234, enacted June 15, 2006 (hereafter referred to as the “June 2006 Supplemental”). The June 2006 Supplemental requires two significant changes to the DVP Operating Requirements:

- (1) It expands family eligibility for DVP to include to several categories of HUD-assisted dwelling units that were previously eligible for the Katrina Disaster Housing Assistance Program (KDHAP).
- (2) It removes the initial lease term requirements of Section 8(o)(7)(A) of the United States Housing Act of 1937 from the DVP.

With the exception of the two changes described above, this Notice does not rescind or replace HUD Notice PIH 2006-12 or other supplemental guidance on the DVP. PHAs should refer to HUD Notice PIH 2006-12, HUD Notice PIH 2006-29, and this Notice for information on administering the DVP.

2. Background.

The Department of Defense Appropriations Act, 2006, (Public Law No. 109-148, enacted on December 30, 2005) appropriated \$390 million to HUD for temporary rental voucher assistance for certain families displaced by Hurricanes Katrina and Rita (i.e., the Disaster Voucher Program, or DVP). However, the Act did not extend DVP eligibility to families that immediately prior to the disaster were residing in: (1) non-Section 8 units in Section 236 housing, (2) non-Section 8 units in non-insured Section 236(b) housing, (3) non-Section 8 units in Section 221(d)(3) BMIR housing, and (4) units in FHA-insured and

non-insured projects with RAP assistance or Rent Supplement assistance. Since families displaced from these categories of HUD-assisted housing were ineligible for the DVP, HUD continued to assist them under the KDHAP.

Unlike its predecessor KDHAP, the DVP funding was specifically authorized under section 8(o) of the United States Housing Act of 1937. The December 2005 Appropriation provided HUD with authority to waive all requirements related to income eligibility and tenant contribution for families participating under the DVP for up to 18 months and HUD exercised that authority when DVP was first implemented. All other statutory provisions of section 8(o), including those covering the initial term of the lease, applied to the DVP.

Unless expressly renewed or extended by Congress, DVP assistance is time limited. Funding must be obligated by HUD by September 30, 2007, and for purposes of administering the DVP, HUD is using September 30, 2007 as the date by which assistance to DVP participants is expected to end.

3. Family Eligibility for the DVP.

The DVP Operating Requirements are revised to reflect a new definition of HUD-assisted dwelling unit for purposes of family eligibility.

A HUD-assisted dwelling unit is defined as a unit receiving rental subsidy under one of the following HUD-assisted rental programs: rental public housing; units receiving tenant-based or project-based Section 8 assistance (including vouchers and SRO moderate rehabilitation projects but excluding homeownership voucher units); Section 202 housing; Section 811 housing; **non-section 8 units in Section 236 housing; non-section 8 units in non-insured Section 236(b) housing; non-Section 8 units in Section 221(d)(3) BMIR housing; and units in FHA-insured and non-insured projects with RAP assistance or Rent Supplement assistance.**

HUD has already contacted PHAs administering KDHAP assistance to the previously DVP-ineligible families and the process for converting the families to DVP is underway. The Disaster Information System (DIS) database has been updated to reflect that families assisted under these categories of units are now eligible for DVP.

Any reference to the ineligibility of the categories of units in bold above in HUD Notice PIH 2006-12 is no longer applicable.

4. Initial Term of the DVP Lease.

Under the housing choice voucher program, the initial term of the lease must usually be for at least one year. A PHA may approve a shorter lease term but only if the PHA determines that such shorter term would improve housing opportunities for the tenant and

such shorter term is the prevailing local market practice. These requirements are found in the program regulations at 24 CFR 982.309(a)(1) and (2).

The June 2006 Supplemental provides that the statutory conditions related to the initial term of the lease no longer apply to the DVP. Therefore, DVP Operating Requirements are revised to provide that the regulations of 24 CFR 982.309(a)(1) and (2) do not apply to any new leases entered in the DVP. The PHA may permit a family and owner to enter into a lease where the initial term of the lease under the DVP is less than one year. No PHA determination is necessary with respect to improving housing opportunities for the family and as to whether the shorter lease term is the prevailing market practice.

All references in HUD Notice PIH 2006-12 (e.g., section 4n) that the initial lease term for the new unit must be for at least one year unless a shorter lease term is the prevailing market practice and the PHA determines such shorter lease term would improve housing opportunities for the family are no longer applicable (including requirements related to approving portability moves under DVP).

This change will allow DVP families to enter into new leases under the program even when there is less than one year remaining before the program sunsets. (HUD is using September 30, 2007 as the date by which assistance to DVP participants is expected to end. The initial lease term for any unit under the DVP must end no later than September 30, 2007, unless subsequently extended by HUD.) A shorter initial lease term is also particularly beneficial to DVP families that must enter a new lease under the DVP (e.g., the family must move to another unit) but anticipate that their pre-disaster assisted unit will be ready for re-occupancy in the relatively near future.

PHAs are also reminded that families and owners are not required to enter into new leases at the end of the initial term of the lease in cases where the family is remaining at the unit. The term of the lease following the completion of the initial term is established by the terms of the lease and/or applicable State and local law. For example, in many cases the term of the lease following the initial lease term continues on a month-to-month basis. Continuing under the existing lease on a month-to-month basis (as opposed to entering into a new lease with a lengthy initial term) will generally be in the best interest of DVP family. The family in such a case may simply terminate the lease with proper notice at such time that their pre-disaster housing is ready for re-occupancy in order to facilitate the family's return home. PHAs are encouraged to recommend such a leasing arrangement to the owner and the family.

It is noted that while PHAs are encouraged to permit families to enter into new leases under the DVP program with a shorter initial lease term, the purpose is to provide families with the necessary flexibility to return to their pre-disaster units in a timely fashion as opposed to facilitating numerous moves with continued DVP assistance. PHA administrative policies regarding limits on the number of moves (such as prohibiting more than one move by the family during any one year period) with continued voucher assistance are applicable to participants moving with continued DVP assistance. (See 982.314(c).)

5. **Additional Information.** Any questions related to this notice should be addressed to the Housing Voucher Management and Operations Division at (202) 708-0477.

/s/
Orlando J. Cabrera, Assistant Secretary
for Public and Indian Housing