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 2006-29 (HA)** Issued: July 28, 2006 Expires: July 31, 2007 Cross References: HUD Notice PIH 2006-12

Subject: Disaster Voucher Program (DVP) Supplemental Guidance: Voucher Program Fungibility Issues Associated with Combining Voucher and Public Housing Funding During Calendar Year 2006

Background

On February 2, 2006, HUD issued PIH 2006-12, Disaster Voucher Program (DVP) Operating Requirements – Rental Assistance for HUD-Assisted Families and Special Needs Families Displaced by Hurricanes Katrina and Rita. Notice PIH 2006-12 specifies that in addition to authorizing funding for the DVP, the Department of Defense Appropriations Act, 2006, (Public Law No. 109-148) provides that HUD may authorize certain PHAs in Louisiana and Mississippi to combine voucher funding under section 8(o) with public housing funding under sections 9(d) and 9(e) of the United States Housing Act of 1937 during calendar year 2006.

On Friday, July 28, 2006, HUD published a Federal Register notice containing implementation guidance for combining public housing operating fund, public housing capital fund, and voucher funding for the PHAs in the most heavily impacted areas of Louisiana and Mississippi that were subject to federal disaster declarations in connection with Hurricane Katrina (Louisiana or Mississippi) or Hurricane Rita (Louisiana). The Federal Register notice included a list of the PHAs eligible to combine voucher and public housing funding and explains the approval process for combining funding.

This DVP supplemental guidance document provides additional guidance on fungibility issues specific to the voucher program.

PHAs Eligible to Combine Voucher and Public Housing Funding

The July 28, 2006, Federal Register notice contained a list of the Louisiana and Mississippi PHAs eligible to combine voucher and public housing funding.

<u>Overview of How the Fungibility Process Works</u>

The first step is for a PHA listed in the July 28, 2006, Federal Register notice to submit a Notice of Intent and fungibility plan for HUD approval to combine voucher and public housing funding. The fungibility approval process is detailed in the July 28, 2006, Federal Register notice, along with a description of the permitted uses of the combined funding and deadlines for funding use. A PHA's fungibility plan must be approved by HUD no later than December 31, 2006, and prior to PHA expenditure of the combined funds.

In the case of the voucher program, the maximum amount of voucher funding that can be used for fungibility will be determined by HUD based on calendar year 2005 and 2006 voucher funding that is not needed for the regular voucher program through December 31, 2006. HUD will determine the amount available for fungibility after consulting with the PHA. HUD will establish for the PHA separate funding maximums for housing assistance payments and administrative fees. In determining the maximum amount of voucher funding available for fungibility, HUD will consider relevant information such as the total voucher program CY 2005 and 2006 HAP funding available (not obligated); funding needed for post-Hurricane Katrina/Rita tenant protection vouchers, post-Hurricanes Katrina/Rita voucher program new admissions; funding for project-based voucher and/or project-based certificate units; funding for units under regular voucher HAP contracts that will not be converted to the DVP; funding necessary to continue current portability billing arrangements; and administrative fees needed to operate the regular voucher program for the balance of CY 2006. Funding that is not needed also includes "freed-up" voucher program funding because DVP funding may be substituted for regular voucher funding for certain families between February 1 and December 31, 2006, as described below in the next section. HUD will provide DVP funding for the housing assistance payments (including any FSS escrow credits and any utility reimbursements expenses) actually incurred by the PHA for these families between February 1 and the date the family's assistance is calculated based on the DVP requirements.

If the PHA opts to substitute DVP funding for regular voucher funding for eligible families, the "freed-up" voucher program funding must be used for public housing capital fund and/or operating fund activities, and may not be used for other purposes such as voucher program administrative costs or admitting new voucher families.

Conversion of Certain Voucher Participants to the DVP After Receiving HUD Approval to Combine Voucher and Public Housing Funding

After receiving HUD approval of the fungibility plan, the PHA will be permitted to immediately convert the regular voucher program assistance to DVP assistance for the PHA's pre-disaster voucher program participants that (1) were forced to evacuate their pre-disaster voucher units for at least a 24 hour period because of Hurricanes Katrina or Rita, and (2) returned to the same units or replacement voucher units in the jurisdiction of the family's pre-disaster PHA. Both the family and the owner must agree to the conversion from the regular voucher program to the DVP. If either the family or the owner does not agree to the conversion, the family will remain a regular voucher program participant.

Use of the DVP funding in lieu of the PHA's current voucher program funding will free-up voucher funding that may then be used to repair public housing damaged by the hurricanes or another eligible public housing activity, provided that the activity meets the statutory requirement that the combined funding be used "to assist families who were receiving housing assistance under the Act [U.S. Housing Act of 1937] immediately prior to Hurricane Katrina or Rita and were displaced from their housing by the hurricanes".

The voucher family's assistance will be calculated based on the DVP requirements for the period beginning the month following the execution of the DVP contractual documents and, provided all program requirements are met, ending on December 31, 2006. PHAs should advise families of the temporary nature of the DVP rent calculations. The regular voucher HAP contract will remain in effect during the time the family's assistance is calculated based on the DVP requirements, and additionally the PHA and the owner will execute a one-page DVP addendum to the regular voucher HAP contract. On January 1, 2007, the funding for the family's assistance will return to the PHA's regular voucher program, and the DVP addendum (but not the regular voucher program HAP contract) will expire. The one-page DVP addendum to the HAP contract is posted on www.hud.gov/pih.

For families participating in the FSS program, the family will continue to participate in the FSS program during the time the family's assistance is calculated based on the DVP requirements. In addition, during the time the family's assistance is calculated based on the DVP requirements, the FSS family will continue to receive the monthly FSS credits to the family's FSS account based on the credit being deposited immediately before the family's transfer from the regular voucher program to the DVP. DVP funding will be used for these FSS escrow credits. Since the PHA will not be implementing an annual reexamination or an interim redetermination of income during the time the FSS family's assistance is calculated based on the DVP requirements, the PHA should defer any recalculation of the monthly escrow credit until the family is again being assisted under the regular voucher program and reporting income information to the PHA.

Impact of the DVP Funding Conversion on Administrative Fees and Voucher Renewal Funding

PHAs that convert the regular voucher program assistance to the DVP for fungibility purposes will receive the full amount of the regular voucher program administrative fees for calendar year 2006. The PHA will not receive the DVP one-time placement fee as the family is already under lease and HAP contract. The PHA may only receive a DVP administrative fee equal to 10 percent of the actual DVP housing assistance payment during the time the family's assistance is calculated based on the DVP requirements (i.e., for the period beginning the month following the execution of the DVP contractual documents, and ending no later than December 31, 2006) if the PHA combines regular voucher program administrative fee funds with public housing operating or capital funds in an amount at least equal to the administrative fee commensurate with the number of families whose assistance is converted to the DVP and the length of time the families will receive DVP assistance In other words, PHAs will not be allowed to collect DVP administrative fees and regular voucher program fees for the same families for the same period of time.[1]

Conversion of regular voucher program assistance to the DVP for fungibility purposes will not impact the amount of the regular voucher program renewal funding for calendar year 2006 and, absent legislation to the contrary, subsequent years.

Impact of the DVP Funding Conversion on Administrative Actions Such as Income Reexaminations and HQS Inspections

The PHA need not implement annual income reexaminations that become "due" during the time that the family is receiving DVP assistance[2]. After DVP assistance ends on December 31, 2006, the PHA should diligently attempt to return the families to their original annual income reexamination implementation schedules. HUD recognizes that this will not be possible for every PHA based on workload and workplace issues. Therefore, HUD will not pursue sanctions against PHAs that are unable to comply with the annual income reexamination requirement as the PHA transitions families back to the regular voucher program.

Annual HQS inspections are required under both the regular voucher program and the DVP. Therefore, the DVP funding conversion does not impact PHA performance of these inspections.

Impact of DVP Funding Conversion on PIC Reporting and SEMAP Ratings

Submission of form HUD-50058 Family Reports into PIC is not required during the time the family receives DVP assistance.

On October 3, 2005 and November 1, 2005, HUD published Federal Register notices[3] concerning regulatory and administrative waivers to assist with the recovery and relief in Hurricanes Katrina and Rita disaster areas (FR-5018-N-01 and FR-5022-N-01). These Federal Register notices authorize PHAs that are located in a disaster area to defer compliance with the SEMAP requirements for an initial period of 12 months (with a

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[1] For example, assume a PHA will convert regular voucher program assistance for 100 units for 5 months. The published 2006 monthly per unit administrative fee amount rate for the regular voucher program is $40 (total administrative fee funds for calendar year 2006 divided by the authorized baseline units divided by 12). In order to receive DVP administrative fees, this PHA must use at least $20,000 of regular voucher program administrative fee funding for public housing activities (100 units x $40 monthly per unit administrative fee amount x 5 months).

[2] Numerous requirements, including income eligibility and tenant contribution requirements, were waived by HUD in connection with the DVP. See the Federal Register notice dated April 3, 2006.

[3] In addition to SEMAP requirements, the October 3 and November 1, 2006 Federal Register notices waived other, additional requirements.

possible extension of three additional months) from the effective date of these Federal Register notices (September 27, 2005 for PHAs with jurisdiction in a Hurricane Katrina declared disaster area; October 25, 2005 for PHAs with jurisdiction in a Hurricane Rita declared disaster area).

Fungibility Accounting Entries and Financial Issues

The combining of voucher program funds, public housing capital funds and public housing operating funds is only authorized for calendar year 2006, and the PHA's fungibility plan must be approved no later than December 31, 2006. However, the deadlines for expending the combined funds extend beyond December 31, 2006. Fund use deadlines and the fungibility accounting entries are detailed in the June xx, 2006 Federal Register notice.

Voucher program funding designated for fungibility will continue to be provided on a monthly basis, as is current practice under the voucher program (i.e., the total funding amount remaining will be divided by the number of months remaining through December 31, 2006).

VMS reporting is required for both the Voucher program and the DVP. PHAs will report families assisted and assistance funds expended in each category and will identify in the comments section those voucher program funds used for public housing capital fund and/or operating fund activities.

Paperwork Reduction Act

The information collection requirements contained in this notice were submitted to the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and approved under OMB approval number 2577-0245. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

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