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

Special Attention: Public Housing Hub Office Directors; PIH Program Center Coordinators; Senior Community Builders; and Section 8 Public Housing Agencies	NOTICE PIH 2001-10 (HA) Issued: March 28, 2001 Expires: March 31, 2002

Cross References:

Subject: Conversion of Regular Housing Choice Vouchers to Enhanced Vouchers for Families affected by Section 8 Project-based Housing Assistance Payment (HAP) Contract Terminations and Expirations (Including Moderate Rehabilitation Contracts) in Federal Fiscal Years (FYs) 1995, 1996, 1997, 1998, and 1999

1. **Purpose**. This notice provides instructions to public housing agencies (PHA) on converting regular housing choice voucher assistance and rental certificate assistance to enhanced voucher assistance in accordance with recent statutory amendments to Section 8(t) of the United States Housing Act of 1937. Subject to the availability of funds, the conversion of regular tenant-based assistance to enhanced vouchers is required for eligible program participants that received regular (non-enhanced) tenant-based rental assistance as the result of certain Section 8 project-based contract expirations or terminations, including non-renewal at HAP contract expiration (as the result of an owner's decision to "opt-out" or HUD decision that the contract could not be renewed). In order to be eligible, the family must have received their voucher or certificate as the result of a covered Section 8 contract expiration or termination that occurred in FYs 1995, 1996, 1997, 1998, or 1999.

2. **Background.** Over the past few years and subject to the availability of appropriations, the Department of Housing and Urban Development (HUD) has provided tenant-based rental assistance to assist eligible residents that were affected by several different types of owner or HUD actions in HUD's Office of Multifamily Housing programs (collectively referred to as "Housing conversion actions"). Before FY 2000, enhanced vouchers were only provided to families in the case of the owner's decision

to prepay the mortgage or voluntarily terminate the mortgage insurance of a preservation eligible property. Enhanced voucher assistance differed from regular voucher assistance in two major respects – the law required that the family continue to contribute towards rent at least the amount the family was paying for rent on the date of the prepayment (the enhanced voucher minimum rent), and the law substituted the use of a higher "enhanced" payment standard in cases where the family wished to stay in the unit and the owner's new gross rent exceeded the PHA established payment standard.

Title V of HUD's FY 2000 Appropriations Act (Public Law 106-74, enacted October 20, 1999) amended Section 8 of the United States Housing Act of 1937 by creating a new subsection (t) to provide permanent statutory authority for enhanced vouchers. Beginning in FY 2000, eligibility for enhanced voucher assistance was extended to families affected by Section 8 project-based contract expirations and terminations as well as preservation prepayments and voluntary terminations of the mortgage insurance.

However, families that received tenant-based assistance before FY 2000 as a result of Section 8 project-based contract expirations or terminations did not benefit from this change. For those families, in cases where the owner's new gross rents exceeded the PHA's applicable payment standard, the family was required to pay the difference between the gross rent and the PHA payment standard out-of-pocket in addition to their total tenant payment (TTP).

Section 228 of HUD's FY 2001 Appropriations Act (Public Law 106-377, enacted October 27, 2000) subsequently amended Section 8(t)(2) of the United States Housing Act of 1937. As a result of this amendment, the regular tenant-based assistance provided to certain families as a result of the termination or expiration of certain Section 8 project-based contracts in fiscal years 1997, 1998, and 1999, may be converted to enhanced vouchers. Two months later, Section 902 of the American Homeownership and Economic Opportunity Act of 2000 (Public Law 106-569, enacted December 27, 2000) further amended Section 8(t)(2) to also include families that received vouchers as a result of the expiration or termination of certain Section 8 project-based contracts in fiscal years 1995 and 1996.

As a result of these successive amendments to Section 8(t), families who received regular vouchers as a result of certain Section 8 project-based contract expirations or terminations in fiscal years 1995 through 1999 and have remained at the project will have their tenant-based assistance converted to enhanced voucher assistance if funding is available. Families who received rental certificates as a result of covered Section 8 project-based contract expirations and terminations in the aforementioned years and have remained at the property will receive enhanced voucher assistance if funding is available when their certificates are converted to the housing choice voucher program.

3. **Family Eligibility**. In order for a rental certificate or housing choice voucher family to be eligible for conversion to an enhanced voucher, the family must have initially received the housing choice voucher or certificate as the result of the expiration or termination of a covered Section 8 project-based contract under which the family was receiving housing assistance. (The covered section 8 contracts are listed below.) The expiration or termination of the Section 8 project-based contract must have occurred in FY 1995, 1996, 1997, 1998, or 1999. The family must still be residing at the property and must have continuously resided in the property with the tenant-based assistance since the effective date of the Section 8 project-based contract expiration or termination.

4. **Covered Section 8 contracts.** In order to be a covered Section 8 contract, the Section 8 project-based HAP contract must have been attached to a property that consisted of more than four dwelling units at the time of contract expiration. The contract must have been under one of the following programs:

    (a) the new construction or substantial rehabilitation program under Section 8(b)(2) of the United States Housing Act of 1937 (as in effect before October 1, 1983);

    (b) the property disposition program under Section 8(b) of the United States Housing Act of 1937;

    (c) the loan management assistance program under Section 8(b) of the United States Housing Act of 1937;

    (d) section 8 of the United States Housing Act of 1937, following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965; or

    (e) the moderate rehabilitation program under Section 8(e)(2) of the United States Housing Act of 1937 (as in effect before October 1, 1991).

Section 8 HAP contracts under the Section 8 project-based certificate program are not covered contracts.

5. Conversion process.

A. The PHA identifies former Section 8 projects and the tenant-based assistance program families still remaining at the property. PHAs must identify any and all multifamily properties for which the PHA received a special allocation of tenant-based assistance as the result of a covered Section 8 contract expiration or termination (defined above in section 4), including any moderate rehabilitation projects administered by the PHA where the moderate rehabilitation contract was terminated or not renewed during the years FY 1995 through FY 1999.

If the PHA has any questions or difficulty in identifying whether a special allocation of vouchers or certificates was for a covered Section 8 project-based contract termination or expiration, or any question as to whether an expired or terminated Section 8 project-based contract is covered by this notice, the PHA should contact the Office of Public Housing in the local HUD field office for assistance.

The PHA then determines if any of its voucher and certificate program families that reside in the covered project are eligible to have their tenant-based assistance converted to enhanced voucher assistance. Only families that initially received tenant-based assistance as a result of the expiration or termination of the Section 8 project-based contract are eligible for the conversion process. Families that either moved into the property following the expiration or termination of the Section 8 project-based contract or did not originally receive tenant-based assistance as a result of the Section 8 contract expiration or termination are not eligible for enhanced voucher assistance.

In following the subsequent steps, the PHA considers any eligible certificate family currently under a HAP contract for an over-fair market rent tenancy option (OFTO) (form HUD-52636 (6/98)) as a voucher family.

B. Determine conversion effective date – voucher (including OFTO certificate families) to enhanced voucher. In any case where the family is currently paying more than total tenant payment (TTP) for the family share (i.e., the gross rent exceeds the applicable PHA payment standard) the effective date of the conversion is November 1, 2000 for FY 1997, 1998, and 1999 HAP contract expirations or terminations. In the case of FY 1995 and 1996 HAP contract expirations or terminations, the effective date of the conversion is January 1, 2001.

However, if the voucher family is currently paying TTP as the family share or is still receiving a shopping incentive under the old voucher subsidy formula (the family is paying less than 30 percent of monthly adjusted income for the family share because the gross rent of the unit is currently less than the PHA payment standard), the conversion to an enhanced voucher will not decrease and may in fact increase the family share. In such a case the effective date of the change is not retroactive. Instead, the effective date of the conversion to enhanced voucher assistance for such a family will be the effective date of any gross rent increase (by increase in the rent to owner or the utility allowance) that results in the gross rent exceeding the normally applicable payment standard (provided the rent increase is in accordance with the lease, voucher program requirements, and state and local law).

C. Conversion effective date -- regular certificate to enhanced voucher. Under the regular certificate program, families could not pay more than TTP for gross rent. In the certificate program, increases in the rent to owner were limited by the annual adjustment factor and the increase was covered by the HAP payment, not by the family. In the case of a current regular certificate family, the family is converted to an enhanced voucher at the time the family’s certificate is converted to the housing choice voucher program, provided the family remains at the project.

D. The PHA calculates the enhanced voucher minimum rent for each eligible family.

As noted earlier, the law requires that a family receiving enhanced voucher assistance must pay no less for rent than the family was paying for rent on the date of the eligibility event (the enhanced voucher minimum rent). In accordance with enhanced voucher rules, the family must pay at least this amount for the family share for as long as the family remains in the property with voucher assistance, unless the family suffers a significant decrease in income.

A significant decrease in income means that the family's current annual income has decreased at least 15 percent from the family annual income on the eligibility event. In such a case, the enhanced voucher minimum rent changes from an actual dollar amount to a specific percentage of income. The enhanced voucher minimum rent in such a case is the greater of the actual percentage of monthly adjusted income the family paid for gross rent on the eligibility event or 30 percent of monthly adjusted income.

To determine the enhanced voucher minimum rent for a family whose regular voucher or certificate is being converted to an enhanced voucher:

(1) The PHA compares the family annual income at initial admission to the tenant-based program to the current annual income to see if there has been a decrease of at least 15 percent.

(2) If the family annual income has not decreased by at least 15 percent, the actual dollar amount of the family total tenant payment (TTP) at initial admission to the tenant-based program is the enhanced voucher minimum rent. TTP is the greatest of 30 percent of adjusted monthly income, 10 percent of gross monthly income, or the welfare rent in as paid states.

(Note that in the voucher program, the family share is not necessarily the family TTP. For example, if the owner's gross rent exceeded the applicable payment standard, the family would pay the difference in addition to TTP as the family share.)

(3) If the family annual income has decreased by at least 15 percent, the family enhanced voucher minimum rent changes to a percentage, not a specific dollar amount. The family enhanced voucher minimum rent is the greater of the percentage of monthly adjusted income the family TTP represented when the family was first admitted to the tenant-based program or 30 percent of adjusted monthly income. In most cases, the TTP for families assisted under the Section 8 project-based programs would have been 30 percent of monthly adjusted income. In practical terms, the enhanced voucher minimum rent requirement is meaningless for these families, since the family is already required to pay at least 30 percent of adjusted monthly rent under the regular housing choice voucher subsidy calculation.

Refer to HUD Notice PIH 2000-9 for additional information on adjusting the enhanced voucher minimum rent as the result of a significant decrease in family income. <u>Note that in any case where a family converted to an enhanced voucher as a result of this notice subsequently suffers a decrease in income that results in at least a 15 percent decrease in annual income from admission to the tenant-based program, the new enhanced voucher minimum rent will always recalculated as a percentage of monthly adjusted income</u>.

E. <u>Calculating the enhanced voucher housing assistance payment</u>. Once the PHA determines the family's enhanced voucher minimum rent and the effective date of the conversion to enhanced voucher assistance, the PHA can calculate the voucher HAP payment for the enhanced voucher family.

The calculation for the HAP payment for the enhanced voucher family is the following:

The gross rent of the unit (regardless of whether the gross rent is higher than the PHA's normally applicable payment standard for the family), minus the greatest of:

(1) 30 percent of monthly adjusted income;
(2) 10 percent of monthly gross income;
(3) the welfare rent in as-paid states;
(4) the enhanced voucher minimum rent; or
(5) such other minimum rent established by the

PHA as authorized by Federal law (see 24 CFR §5.630).

Several examples illustrating the conversion of vouchers and certificates to enhanced voucher assistance are found in the attachment to this notice.

6. **Administering enhanced voucher assistance**. Once the assistance is converted to an enhanced voucher, the special conditions of the enhanced voucher (enhanced voucher minimum rent and the special payment standard rules) are applicable for as long as the family receives voucher assistance at the project. If an owner subsequently raises the rent for an enhanced voucher family in accordance with the lease, State and local law, and voucher program regulations (including rent reasonableness), the PHA will use the new gross rent to calculate the voucher HAP payment for the family.

   After the conversion, it is important for the PHA to identify the family as an enhanced voucher family even if the gross rent of the family's unit does not currently exceed the normally applicable PHA payment standard. Since the enhanced payment standard rule also covers any subsequent rent increases, it is possible that the special payment standard will come into play later in the family's tenancy. An enhanced voucher family is also required by law to pay no less than the enhanced voucher minimum rent, regardless of whether the gross rent exceeds the normally applicable PHA payment standard.

   The PHA uses the normal voucher rules when calculating the voucher HAP payment and family share at the new unit if an enhanced voucher family moves from the project.

   See HUD Notice PIH 2000-9 for additional information on enhanced vouchers.

7. **Timing and other processing issues**. Although the PHA makes the conversion to enhanced vouchers effective for the unit months commencing November 1, 2000, or January 1, 2001, as applicable, some eligible families are facing significant rent burdens in the interim. PHAs are therefore encouraged to initiate and complete the conversion process as quickly as possible. In cases where a PHA has a number of potential properties or a significant number of eligible families, the PHA is encouraged to prioritize its efforts in order to assist worst-case needs first.

In general, PHAs should complete the conversion process for any participant who will see a reduction in their family share no later than 120 days from the issuance date of this notice.

If the effective date of an eligible family's annual income reexamination falls within the 120-day period, the PHA may wish to convert the family to an enhanced voucher and make any retroactive adjustment to the family share during the annual income reexamination process. However, the PHA should not delay the conversion process for the family if the annual reexamination falls outside of this 120-day period. Furthermore, please note it is not necessary or required for the PHA to conduct an annual or interim income reexamination in order to convert the family to an enhanced voucher.

Converting regular tenant-based assistance to enhanced vouchers is <u>not</u> a Housing conversion action under HUD Notice PIH 2000-9, and neither the procedures for requesting voucher funding in Part II of HUD Notice PIH 2000-9 nor the special fee for Housing conversion actions are applicable to this process.

HUD anticipates that most PHAs will have sufficient funding available (including available reserves) to absorb the cost of the enhanced voucher assistance and any retroactive adjustments. HUD will handle any potential shortfall of funds resulting from the increased cost of enhanced voucher assistance on a case-by-case basis.

If a PHA believes it does not have sufficient funds available to cover the projected increase in program costs and will require additional funding, the PHA should contact the Section 8 Finance Division at 202-708-2934. The Section 8 Finance Division will analyze whether additional funding is necessary and advise the PHA and the Office of Public Housing in the local HUD field office accordingly.

8. **Additional Information.** Any questions related to this notice may be addressed to Michael Dennis of the Real Estate and Housing Performance Division in PIH. Mr. Dennis may be reached at (202) 708-0477, ext. 4059.

________/s/__________________________
Gloria J. Cousar
Acting General Deputy Assistant Secretary
for Public and Indian Housing

Attachment

ATTACHMENT CONVERSION TO ENHANCED VOUCHERS

Assumptions: The following assumptions apply to all of the examples.

The family is eligible for the conversion to enhanced voucher assistance. All utilities are included in rent to owner. The owner's current rent and any rent increases are reasonable and in accordance with program regulations, the lease, and State and local law. Unless otherwise noted, 30 percent of the family's monthly adjusted income is greater than 10 percent of monthly gross income, the welfare rent in as-paid states, and any other PHA minimum rent.

Case 1 Voucher Family

This case illustrates a very basic conversion subsidy calculation for a voucher family who now qualifies for an enhanced voucher.

Case 2 Voucher Family (enhanced voucher minimum rent)

In this scenario, the enhanced voucher minimum rent will come into play when the PHA calculates the new subsidy under the enhanced voucher rules.

Case 3 Voucher Family currently receiving shopping incentive

This is an example of converting a regular voucher family who is still receiving a shopping incentive to the enhanced voucher program.

Case 4 Certificate Family

This is an example of converting a certificate family to an enhanced voucher. This case also illustrates how the enhanced voucher minimum rent is determined when the family's annual income has decreased at least 15 percent since initial admission to the tenant-based program.

Case 1 Voucher Family

The Amundsen family received a voucher as the result of owner opt-out of a covered Section 8 contract. The effective date of the owner opt-out is August 31, 1998. The annual income of the family has not decreased from the annual income at admission to the program.

September 1, 1998 (initial admission)

Family TTP (30% of monthly adjusted income): $199

November 1, 2000

Gross rent of unit:	$532
PHA payment standard:	$500
Family TTP (30% of monthly adjusted income):	$205
Voucher HAP payment:	$295
Family share:	$237

December 2000 - March 2001   No change

1. Since this is an FY 1998 contract expiration and the family is currently paying more than TTP as the family share, the enhanced voucher conversion is retroactive to November 1, 2000.

2. The family enhanced voucher minimum rent is $199. (This is based on the actual dollar amount of family TTP at admission to the voucher program.)

3. The new enhanced voucher HAP payment calculation:

Gross rent	$532
minus TTP	-$205

Enhanced voucher HAP payment = $327

4. PHA will also make an adjustment to reflect $32 difference in family share from November 1, 2000, to February 1, 2001.

$32 ($237-$205) x 5 (Nov, Dec, Jan, Feb, Mar) = $160 credited to family

CASE 2 Voucher family

The Scott family received a voucher as the result of owner opt-out effective November 30, 1998. Although annual income decreased slightly from initial admission, the decrease is not at least 15 percent. Enhanced voucher minimum rent is family TTP at initial admission to the program.

December 1, 1998 (initial admission)

Family TTP (30% of monthly adjusted income):	$330

November 1, 2000

Gross Rent of Unit:	$530
PHA Payment Standard:	$500
Family TTP (30% of monthly adjusted income):	$330
Voucher HAP payment:	$170
Family share:	$360

December 1, 2000 (rent increase and changes in family income effective 12-1-00 (annual income reexamination))

Gross Rent of Unit:	$570
PHA Payment Standard:	$500
Family TTP (30% of monthly adjusted income):	$325
Voucher HAP payment:	$175
Family share:	$395

Jan 2001 - March 2001 No change

1. Since this is an FY 1999 contract expiration and the family is paying more than TTP as family share, the enhanced voucher conversion is applied retroactively to November 1, 2000.

2. The family enhanced voucher minimum rent is $330 (note this amount is greater than current TTP of $325)

3. Enhanced voucher HAP contract calculation

Gross rent	$570
minus TTP	-$330
Enhanced voucher HAP =	$240

4. PHA also will make adjustment to reflect difference the family paid (would have paid) for the family share for Nov, Dec, Jan, Feb, and March.

$65 ($395-$330) x 4 (Dec, Jan, Feb, Mar)	=	$260
$30 ($360-$330) x 1 (Nov)	=	+ $30
		$290

Case 3 Voucher family with shopping incentive

The Byrd family received a voucher as the result of a Section 8 project-based contract opt-out that was effective June 30, 1996. The family annual income has increased slightly since admission to the voucher program.

Note that this case differs from the first two cases in a couple of respects. First, this family is still receiving a shopping incentive under the old voucher subsidy formula. The effective date of the family's second reexamination (which eliminates the shopping incentive) is July 1, 2001. Secondly, this is a FY 1996 contract opt-out. That means any retroactive adjustment, if applicable, will be made back to January 1, 2001, not November 1, 2000.

July 1, 1996 (initial admission)

Family TTP at admission to tenant-based program = $254 (30 percent of monthly adjusted income)

January 2001

Gross Rent of Unit:	$480
PHA Payment Standard:	$500
Current Family TTP (30% of mon adj. income):	$280
10% of monthly gross income:	$100
Voucher HAP payment:	$220
Family Share:	$260

February - June 2001 No change

July 1, 2001 Owner raises gross rent to $510, no change in family income (annual recertification)

1. Since the family share was less than the current TTP, there is no retroactive effective date for this conversion. In this case, the effective date of the conversion to enhanced voucher assistance will be July 1, 2001, which is the effective date of the rent increase that brings the gross rent above the normally applicable payment standard.

2. The family enhanced voucher minimum rent is $254. (This is the actual dollar amount of family TTP at admission to the voucher program.)

3. New enhanced voucher HAP contract calculation (effective July 1, 2001)

Gross rent	$510
minus TTP	-$280
Enhanced voucher HAP =	$230

Case 4 Certificate Family

The Shackleton family received a certificate as the result of the expiration of a Section 8 project-based contract on April 30, 1996. Mandatory conversion date to housing choice voucher program is May 1, 2001.

The family annual income has decreased over 15 percent since admission to the certificate program.

At initial admission (May 1, 1996):
Family TTP (30% of monthly adjusted income)= $376

January 2001

Gross Rent of Unit:	$545
Family TTP (30% of monthly adjusted income):	$95
Certificate HAP payment:	$450

February 2001-April 2001 no change

May 1, 2001 (effective date of family income reexamination)

During the annual income reexamination process, PHA determines family income has increased and TTP (30% of family monthly adjusted income) is now $115.

Gross rent of Unit:	$560 (owner increases rent $15)
PHA Payment Standard:	$500

1. Since this is a regular certificate family, there is no retroactive effective date. The effective date of the enhanced voucher HAP contract is May 1, 2001.

2. Since the family annual income has decreased more than 15 percent, the family enhanced voucher minimum rent is 30 percent of current monthly adjusted income. This is the percentage of monthly adjusted income TTP represented when family was first admitted to the certificate program. In practical terms, the enhanced voucher minimum rent is meaningless for this family.

3. The enhanced voucher HAP payment calculation (effective May 1, 2001) is:

Gross rent of unit:	$560
minus family TTP:	$115

Enhanced voucher HAP payment = $445