



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;
Multifamily Hub Directors; Multifamily Program
Center Directors; Public Housing Agencies
Administering Housing Choice Voucher
Programs; Owners/Agents; Regional Directors;
and State and Area Coordinators

Notice PIH-2016-02 (HA)

Issued: March 4, 2016

Expires: Effective until
amended, superseded,
or rescinded

Cross References:

HUD Notice PIH 2001-41(HA); 2008-12

Subject: Enhanced Voucher Requirements for Over-housed Families

- 1. Purpose.** This Notice supersedes Notice PIH 2008-12 which sets forth the enhanced voucher policies that are applicable to families residing in units where the actual number of bedrooms exceeds the family unit size for which the family qualifies under the public housing agency (PHA) subsidy standards (i.e., “over-housed families”). (PIH Notice 2001-41 provides comprehensive policy on Housing Conversion Actions and includes outdated policy on over-housed families. PHAs should refer to this Notice for policy on over-housed enhanced voucher families and strike the obsolete policy stated in PIH Notice 2001-41).

The policies described within this Notice are effective prospectively from the issuance date and supersede previous policies on over-housed enhanced voucher families. These policies apply to both enhanced voucher families that are determined to be in an over-housed situation at any point during the voucher tenancy as well as any over-housed family where the enhanced voucher subsidy is currently based on the gross rent of the over-sized unit.

- 2. Background.** HUD provides tenant-based rental assistance in order to assist eligible residents that are 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”). Depending on the Housing conversion action and subject to the availability of appropriations, eligible families receive either regular voucher assistance or enhanced voucher assistance to mitigate the impact of the conversion action on the family’s rent.

Enhanced vouchers are primarily provided in the case of preservation prepayments and Section 8 project-based contract opt-outs.¹

Enhanced voucher assistance under Section 8(t) of the United States Housing Act of 1937 is calculated differently from regular housing choice voucher assistance if the family remains in the project. A higher “enhanced” payment standard is used to determine the amount of the monthly subsidy in cases where the gross rent of the unit exceeds the normally applicable PHA payment standard. In such instances, the gross rent for the unit is used in the monthly subsidy calculation instead of the normally applicable payment standard.²

3. Voucher Issuance and PHA Determination of the Family’s Over-housed Status.

Under a Housing conversion action, the PHA issues an eligible family an enhanced voucher based on the PHA subsidy standards (see 24 CFR §982.402), not the actual size of the unit the family is currently occupying. A PHA must approve requests for a larger bedroom size to permit additional bedrooms if it may be necessary as a reasonable accommodation for a household with a family member with a disability, such as for example, to accommodate the need for a live-in aide or for medical equipment (see 24 CFR part 8). If the bedroom size of the family’s unit exceeds the number of bedrooms for which the family qualifies under the PHA subsidy standards, the family is an over-housed family unless the family qualifies for a reasonable accommodation because one or more family member(s) need an additional bedroom.

If an over-housed family chooses to move from the project at any time, the normal tenant-based voucher program rules apply to the subsidy calculation for the new unit. In such a case, the payment standard is the lower of the payment standard for the family unit size under the PHA subsidy standards or the payment standard for the actual size of the unit rented by the family (see 24 CFR §982.402(c)). However, if an over-housed family wishes to remain at the project, the regular voucher program requirements regarding the payment standard are not applicable and the provisions of this notice apply.

4. Availability of Appropriate Size Units in the Project. Once the PHA determines the family is over-housed, the PHA must inform the family and explain the requirements under this notice. If the family indicates it wishes to remain at the project with enhanced voucher assistance, the PHA must inform the owner of the project that the family is in an over-sized unit. The PHA must also provide the owner with the bedroom size for which the family actually qualifies under the PHA subsidy standards (i.e., the appropriate size unit). The owner must then identify all appropriate size units that are available in the

¹ Preservation prepayments are cases where the owner of a preservation eligible property (generally section 236 and section 221(d)(3) projects) is prepaying the mortgage or voluntarily terminating the mortgage insurance. Section 8 project-based opt-outs are situations where an owner chooses to end participation in certain programs by either opting-out of or not renewing certain expiring Section 8 project-based contracts.

² The housing assistance payment calculation for an enhanced voucher family remaining in the project is the gross rent of the unit minus the greatest of (a) 30 percent of adjusted monthly income; (b) 10 percent of monthly income; (c) the welfare rent in as-paid states; (d) the enhanced voucher minimum rent (see HUD Notice PIH 2001-41, section II.c.3 for further details); or (e) such other minimum rent established by the PHA (see 24 CFR §5.630).

project. (Throughout this notice, when an appropriate size unit does not physically exist at the project, the term “appropriate size unit” also includes an available bedroom size unit that is smaller than the family’s current unit but is not smaller than the appropriate size unit for which the family qualifies under the PHA’s subsidy standards (see paragraph 5 for further information)).

The over-housed family must move to an appropriate size unit in the project if one is available in order to receive enhanced voucher assistance.³ The family and owner will enter into a lease and the PHA will execute a voucher housing assistance payments (HAP) contract on behalf of the family for the appropriate size unit to which the family moves. The enhanced voucher housing assistance payment calculation is based on the gross rent of the appropriate size unit.

If an over-housed enhanced voucher family refuses to move to the appropriate size unit, and one exists and is available for occupancy, the PHA will calculate the family’s housing assistance payment for the over-sized unit based on the normally applicable voucher subsidy formula using the applicable payment standard established by the PHA for its voucher program (see 24 CFR §982.402(c) and (d)). The family will be responsible for any amount of the gross rent not covered by the housing assistance payment.

- 5. Appropriate Size Unit does not Physically Exist in the Project.** If the family wishes to remain at the project with enhanced voucher assistance, and an appropriate size unit does not physically exist at the project, but a bedroom size unit is available that is smaller than the family’s current unit but not smaller than the unit size for which the family qualifies under the PHA subsidy standards, the family must move to the smaller bedroom size unit within a reasonable time, as determined by the PHA but not to exceed 30 days. The family and owner will enter into a new lease and the PHA will execute a new voucher HAP contract with the owner for the smaller bedroom size unit. The enhanced voucher subsidy calculation is based on the gross rent for the smaller bedroom size unit.

If an over-housed enhanced voucher family refuses to move to the smaller bedroom size unit, and one exists and is available for occupancy, the PHA will calculate the family’s housing assistance payment for the over-sized unit based on the normally applicable voucher subsidy formula using the applicable payment standard established by the PHA for its voucher program (see 24 CFR §982.402(c) and (d)). The family will be responsible for any amount of the gross rent not covered by the housing assistance payment.

- 6. No Appropriate Size Units Currently Available in the Project.** If an appropriate size unit is not currently available for the family in the project, the PHA executes a voucher HAP contract on behalf of the family for the over-sized unit, provided the rent is reasonable and the unit complies with all other voucher program requirements such as

³ In order to be considered an available unit, the unit must not only be available for occupancy by the family but must meet all voucher program requirements, including but not limited to rent reasonableness and housing quality standards.

the housing quality standards. The enhanced voucher housing subsidy calculation is based on the gross rent for the over-sized unit. The subsidy calculation will continue to be based on the gross rent (including subsequent rent increases) for the over-sized unit⁴ until an appropriate size unit in the project becomes available for occupancy by the family.

The PHA must maintain a record of enhanced voucher families living in over-sized units and monitor the availability of appropriate size units at the project. The PHA shall monitor the availability by periodically contacting the owner but not less than once per quarter. The PHA may also consult other sources such as real estate agencies, periodicals that advertise rentals, or any other applicable sources. The PHA must keep record of contact made with owners (or other sources) concerning the availability or expected availability of units.

7. **Owner and PHA Responsibilities when Appropriate Size Units Subsequently Become Available in the Project.** The owner must immediately inform the PHA and the family when an appropriate size unit will become available in the project. The owner is subject to possible financial penalties or other enforcement actions if the owner fails to notify the PHA immediately. If the PHA learns of available units at the project for which the owner failed to notify the PHA, the PHA must report such information to HUD by sending an email to OverhousedEVs@hud.gov with the subject line **Over-housed Enhanced Voucher Families**. Within the email, the PHA must provide the following: PHA code; name and address of the project; the name of the project owner if known; the approximate date the appropriate size units became available; and whether the units are currently leased to market rate or voucher families. The PHA must also copy the relevant local HUD Office of Public Housing (PH) Director on the email.
8. **PHA and Family Actions when Appropriate Size Units Subsequently Become Available in the Project.** When the PHA is informed that an appropriate size unit is available, the PHA must immediately notify the over-housed family of the availability of the unit and the family must move to the appropriate size unit in a reasonable time (as determined by the PHA, but not to exceed 30 days) to continue to receive enhanced voucher assistance. The family and owner will enter into a new lease and the PHA will execute a new voucher HAP contract with the owner for the appropriate size unit. The enhanced voucher subsidy calculation is based on the gross rent for the appropriate size unit.

The PHA must develop a policy and amend its administrative plan to include its policy concerning what constitutes a reasonable time (that does not exceed 30 days, absent any extension granted) in which the family must move to an appropriate size unit. Such policy must include a detailed procedure where exceptions may be granted upon request by the family that would allow for an extension of time when moves within the established timeframe would create extreme hardship (as defined within the PHA's policy). The PHA's policy must balance the family's need for an extension to the

⁴ This is assuming the unit remains under the voucher HAP contract and all program requirements (such as rent reasonableness) continue to be met.

established timeframe and the economic need for the owner to re-lease the unit. If the family does not move to the appropriate size unit within the established timeframe or any extension granted, the PHA shall notify the owner that the unit may be re-leased to a family chosen by the owner and the over housed family's subsidy is recalculated as described below.

If an over-housed enhanced voucher family refuses to move to the appropriate size unit or does not move within the established timeframe as determined by the PHA, the PHA will recalculate the family's housing assistance payment for the oversized unit based on the normally applicable voucher subsidy formula using the applicable payment standard established by the PHA for its voucher program (see 24 CFR §982.402(c) and (d)). The family will be responsible for any amount of the gross rent not covered by the housing assistance payment.

- 9. Number of Over-housed Families Exceeds the Availability of Appropriate Size Units in the Project.** If more than one over-housed enhanced voucher family residing at the project qualifies for the same size unit under the PHA's subsidy standards, and the number of appropriate size units that become available at any given time is less than the number of units necessary to accommodate the number of over-housed families, the PHA must develop a fair method by which to offer the units to families. The PHA may wish to consider such methods as date and time, (i.e., families living in over-sized units for the longest period of time are offered appropriate sized units first); lottery for families with the same voucher anniversary date; request that families volunteer to move; age; frailty or any other fair nondiscriminatory method the PHA chooses to implement.
- 10. Decrease in Family Size or Change in Family Composition.** If, as a result of a decrease in family size or change in family composition, an enhanced voucher family subsequently becomes over-housed, the family must move to an appropriate size unit in accordance with paragraphs 4 and 5 above. Until such time that an appropriate size unit becomes available for occupancy by the family in the project, the family would continue to receive enhanced voucher assistance in the oversized unit.
- 11. Effective Communication and Limited English Proficiency.** Under Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act, in implementing these policies PHAs must take appropriate steps to ensure effective communication with individuals with disabilities through the use of appropriate auxiliary aids and services, which may include large print and Brailled notifications, depending on what is effective for the family member with a disability. In addition, under Title VI of the Civil Rights Act, PHAs must take reasonable steps to ensure meaningful access by limited English proficient persons (LEP).

12. Questions. Inquiries about this Notice should be directed to staff in the Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, at (202) 708-0477.

/s/

Lourdes Castro Ramírez
Principal Deputy Assistant Secretary
for Public and Indian Housing