

Possible PHA Strategies to Respond to a Funding Shortfall in 2005

Due to the level of appropriations and the fixed funding policy enacted by Congress in the 2005 Consolidated Appropriations Act (P.L. 108-447), some PHAs will receive less funds from HUD in 2005 than they need to meet the costs of the current number of authorized vouchers in use. In 2005, PHAs have the full calendar year to bring costs in line with funding; PHA fiscal years should not affect decision-making. Available strategies are ranked in four categories. “Best” responses are those that will advance program goals of paying reasonable rents and enhancing housing choice while providing decent quality, affordable housing to the maximum number of authorized families. Responses that would cause “minimal,” “moderate” and “severe” harm are those that undermine one or more of these goals. PHAs may be able to draw their program reserve funds to avoid harmful policy changes.

I. Best Responses	Savings Potential	Legality	Pros	Cons
1. Aggressive rent reasonableness – individual unit determinations	Depends on degree of improvement possible. May reduce rents during lease term.	Yes (see 24 CFR 982.507 and PIH Notice 2005-1, ¶ 6.)	No shift in rent burden to tenants; no mid-term termination of contracts	If overdone could cause owners to opt out; Staff intensive (though could prioritize units with highest rents)
1a. Across the board rent reasonableness reductions	Depending on % reduction could be fairly substantial	?; increased if based on some data and rebuttable by owners	Same, and much less staff time required	More risk of owner opt-out
2. More accurate income/tenant payment determinations	Probably slim	yes	Helps PHA on SEMAP and RIM reviews; increases program credibility	Time-consuming; could result in adverse actions for some tenants
3. Voluntary rent reductions by owners	Depends on % that agree; will have more potential in many agencies than #1.	Probably. See PIH Notice 2005-9, ¶ 3(e).	No shift in rent burden to tenants; no mid-term termination of contracts	If overdone could cause owners to opt out; some administrative burden
4. Ask HUD to order jurisdictions that bill (and are not overleased) to absorb portables	Depends on circumstances; could be substantial	See 982.355(d)(2), (f)(4), but HUD has so far refused	No adverse consequences for participants	Reduces leasing rate for initial PHA. May reduce access to new vouchers for families on waiting list of initial agency.
5. Increased HQS enforcement	Depends on circumstances: savings results from suspending HAP for violations	Yes	Improved housing conditions	Could increase evictions or force tenants to move; may force landlords out of program; staff intensive
6. Administrative efficiencies	Depends on circumstances	Yes: excess admin. fees may be used to meet subsidy gap	Helps PHA in long-run	PHA may want to save any excess fees against future “rainy day”

II. Responses that Cause Minimal Harm	Savings Potential	Legality	Pros	Cons
1. No delay in rent recertification when tenant income increases	Small (?) and only for agencies that now delay	Yes — option now		Eliminates only general and earned income disregard in voucher program; more staff time
2. No new FSS enrollees	? — depends on what PHA would otherwise have allowed	Depends on whether PHA meets mandatory level (but waiver likely)	Saves staff time	Reduces self-sufficiency efforts and tenant savings
3. No “moving” vouchers for families in project-based voucher units	Seems none unless don’t honor project-based contract or else part of no issuance strategy below.	Illegal if other vouchers being issued		
4. Strict enforcement of (or changes to) occupancy standards on unit size	Depends on how much of a change from current agency policy and timing of implementation	Yes, if consistent with HUD rules, including that “children of opposite sex, other than very young children, may not be required to occupy the same bedroom or living/sleeping room.” See 24 CFR 982.401(d); HUD 6/14/04 powerpoint, slide 52*. But see PIH 2005-9, ¶ 4(b), purporting to allow standard of 2 persons per bedroom, regardless of sex or age without waiver request.	Consistent enforcement of current occupancy standards would promote fairness and uniformity	Rent increases for newly “overhoused” families. Larger families may have more trouble finding willing landlord due to restricted BR size of voucher. May impair family dynamics
5. No rent increases for units of tenants staying in-place, regardless of whether rent increase requested is reasonable.	Moderate [?]	Unclear. Lease Addendum and HAP contract say rent <i>shall not exceed</i> reasonable rent. But HUD 6/14/04 powerpoint, slide 55, says PHA may not refuse to “process” owner requests for rent increases. No known landlord legal challenge.	Simple to administer; no direct rent shift to tenants	In rising market may increase owner opt-outs and generally undermine confidence in program. PHAs may be able to minimize harm through good outreach.

* Housing Choice Voucher Appropriations Implementation, June 21, 2004 available at <http://www.hud.gov/webcasts/archives/ph.cfm>. See also Follow-Up Questions to June 14th and June 21st Broadcasts on Housing Choice Voucher Program available at <http://www.hud.gov/offices/pih/programs/hcv/index.cfm>.

III. Responses that Cause Moderate Harm	Savings Potential	Legality	Pros	Cons
1. Increase minimum rent	Depends on how many families paying less and likely hardship exceptions	Yes, up to \$50/month		Hurts poorest families; tenant exception requests could be time-consuming
2. Decrease payment standards	Small initially; Increases with time, depending on % of rents above new payment standard and amount of moves/new participants	Yes (for new participants and movers, and stayers after 2 nd redetermination) 24 CFR 982.505(c)(3). Examine whether likely to result in more than 40% of families paying more than 30%. Anti-discrimination provisions probably require new policies to apply to all households of same size in particular area, regardless of family type, despite the language of the conference report directing PHAs to protect elderly and disabled households from significant impacts. PIH 2005-9, ¶3(a) advises that 90% of FMR floor may be waived despite effect on rent burdens. May be inconsistent with statute.	Good only if really were too high (so may be better if done only for some neighborhoods or BR sizes)	Shifts rent burdens to tenants; undermines choice and deconcentration; could hurt utilization and success (esp. for lowest income)
3. Adjust preferences to admit no more than 75% and highest income ELI households	Modest and only affects new admissions	Yes (assuming no problem posed by Con Plan).		Hurt homeless and other extremely poor applicants
4. Reducing or temporarily suspending payments to owners (w/o rent reas.)	Significant (but may impact future funding if suspending payments reduces determination of “units leased”)	No. See HUD’s 6/14/04 webcast and powerpoint, slides 55, 56	During lease, tenants’ share of rent may not be subject to increase.	Likely landlord opt-outs. PHA liability for penalty for late payments if suspend.
5. No moves except to same or lower rent units	Depends on program size and types of moves	Unclear. If lack funds, HUD regs allow denial of all moves, not just to more expensive units. See 982.314(e)(1). But PIH 2005-9, ¶3(c) allows denial of moves to more expensive units. May violate fair housing obligations.	Probably affects few tenants and no owners	Contrary to purpose of program; could interfere substantially with families’ lives

6. No portability (or only if not more costly or if receiving PHA absorbs)	Similar to above	PHA may not prohibit or treat portability moves differently from other moves. See Russell letter 10/21/04, 24 CFR 982.355(e)(6), PIH 2005-1, ¶6. PIH 2005-9, ¶3(c): any denial of moving only if insufficient funds, but does not clarify meaning of “insufficient.”	Same	Same
7. No increase in utility allowance	Only saves money to extent gross rents currently below payment standard.	Depends on data. PIH 2005-9, ¶3(b) notifies PHAs that HUD may waive the requirement of 24 CFR 982.517(c) that utility allowances must be increased any time utility rates increase by 10% or more. May violate statutory rent requirements.		Higher actual tenant payments
8. No FSS escrow deposits	Depends on # of families	No. See HUD’s 6/14/04 powerpoint, slide 56.	May make up payments later	Undermines PHA commitments

IV. Responses that Cause Severe Harm**	Savings Potential	Legality	Pros	Cons
1. Reduce # served by a. not issuing unused authorized vouchers (on turnover or otherwise)	Substantial	yes	Easier to reverse than many other policy changes; saves staff time	Hurts applicants at top of list and social service programs that rely on availability of vouchers. Could lock in lower maximum number of vouchers. Hard to make visible. If lose high-performer status, more admin. burdens
b. by more aggressive fault terminations	Substantial	Depends on grounds and process used		Also hurts families terminated; because formerly would have worked out problems may be seen as arbitrary or unfair; staff intensive
c. by also freezing vouchers of searchers	Substantial	Yes	Easier to reverse than many other policy changes.	Also hurts affected families. Bad publicity for agency (though helps make harm visible).
d. by denying all moving vouchers	Depends upon number of requests and whether some families leave program as result.	No. See III (5) and (6).		Unfair impact on families needing to move; contrary to the purposes of the program. See III (5) and (6).
2. Terminate some or all HAP contracts with owners and reoffer at lower payment standard	Substantial, depending on amount of payment standard reduction	Probably illegal (unless HUD changes reg); some argue within PHA discretion if funding inadequate or if done voluntarily	Shares pain; May maintain number of vouchers in use (depending on owner opt-outs and tenants' ability to find new units)	Shifts rent burdens to tenants; Some owners will terminate and displaced families may not find other units; Undermines owner confidence. Politically invisible
3. Terminate a small % of current participants	Substantial. Most savings if terminate poorest families with least ability to afford rent; may be required for those few PHAs that would otherwise be overleased for the calendar year.	Yes (if PHA has insufficient reserves to cover funding shortfall and PHA adopts criteria properly).	Very visible. Threats to terminate families may lead to additional resources. Fewer owners affected.	Risk of homelessness etc. to families affected. Could mitigate harm somewhat if offer public housing units. Undermines confidence in reliability of funding.

** Severity of harm increases as read down this chart.