U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Financial Management Center
2380 McGee Street, Suite 400
Kansas City, MO 64108-2605

Office of Public and Indian Housing

April 26, 2013

Dear Executive Director:

Subject: 2013 Housing Choice Voucher (HCV) Funding Shortfalls and Use of the Renewal Set-aside to Prevent Terminations Due to Insufficient Funding

Background

As you are aware, the full-year Continuing Resolution ("Consolidated and Further Continuing Appropriations Act, 2013" (PL 113-6), referred to in this letter as the "2013 CR") was enacted on March 26, 2013. HUD is currently in the process of calculating public housing agencies' (PHAs) Calendar Year 2013 funding. As in past years we will be issuing a PIH implementation notice that provides information on all of the 2013 Final CR provisions, including set-aside funding eligibility, and then providing your agency with your final funding notification letter.

Please be assured that we understand the urgency to provide PHAs with the notification of their final CY 2013 renewal funding, given the lateness in the calendar year and the significant funding cuts resulting from Sequestration, and are doing all we can to expedite the renewal calculations and the notification process. The Appropriations Act implementation notice is expected to be published by mid-to-late May, with the final notification letter following shortly thereafter.

Set-aside Funding to Prevent Terminations Due to Insufficient Funding

The 2013 CR continues to "set-aside" renewal funds of approximately $100 million for PHAs that qualify under certain categories. [1] However, the 2013 CR expanded the use of the HAP Renewal Set-aside funds by providing a new funding category. In 2013, HUD may also use the set-aside funding for "PHAs that despite taking reasonable cost savings measures, as determined by the Secretary, would otherwise be required to terminate participating families from the program due to insufficient funds."

<u>Detailed guidance on the process to apply for set-aside funding will be provided in a forthcoming PIH Notice. In the interim, this letter informs PHAs of the reasonable cost savings measures that PHAs must undertake in order to be eligible for funding under the insufficient funding category.</u> It is important to emphasize that the statutory purpose of this funding category is strictly to prevent the termination of participating families. Funding awarded under this category may not be used for other purposes, such as to assist PHAs that wish to increase or maintain current leasing or that wish to be able to support a minimum PHA reserve.

[1] Besides the new insufficient funding category, the set-aside may be used for significant increases in renewal costs as a result of unforeseen circumstances or portability, vouchers not in use during the 12 month re-benchmark period to meet a project-based voucher commitment, and HUD-VASH.

To be eligible for the set-aside funding to prevent terminations due to insufficient funding, a PHA must meet the following requirements:

(1) At the time of application, the PHA is working with the HUD Shortfall Prevention Team, and HUD Shortfall Prevention Team has confirmed the PHA is in a shortfall position. (PHAs that are not currently working with the Shortfall Prevention Team but believe they are in a shortfall position should immediately contact their HUD Field Office for assistance.)
(2) The PHA has ceased issuing vouchers to applicants. (Please note this does not apply to families that are participants and were issued a voucher to move to a different unit. This restriction is also not applicable to tenant protection vouchers that are being issued to targeted families that were residing in the covered property on the eligibility event, or where the PHA is leasing homeless veterans under a recent HUD-VASH allocation.)
(3) The PHA has rescinded or immediately rescinds following receipt of this letter any vouchers remaining on the street that were issued to applicant families on or after April 1, 2013 and has stopped leasing units. Note this does not apply to vouchers issued under the two exceptions noted in paragraph (2) above. (PHAs were notified in March that the Sequestration was effective and of the expected impact on the proration for 2013 funding, as well as provided guidance on how to estimate their available resources in the wake of the Sequestration cuts. Therefore, HUD's expectation is that PHAs in shortfall positions would not have been issuing vouchers at such a late date, or have taken/are taking immediate action to rescind any vouchers issued in error.) In addition, PHAs may enter into PBV HAP contracts for units that are under AHAP as of the date of this letter and still meet this condition.
(4) The PHA has ceased or immediately ceases to absorb portable vouchers.
(5) In regard to project-based voucher (PBV) HAP contracts, vouchers are not issued to a family that wants to voluntarily move. (However, if a unit becomes vacant, the PBV unit shall be filled with a family from the waiting list.)

A PHA that applies for funding under this new category will be required to certify that the above conditions have been met as part of the application process. A PHA that receives set-aside funding for the prevention of terminations due to insufficient funding generally may not lease any units (with the exceptions noted above) for the remainder of the calendar year. However, should the PHA's financial situation improve during the course of the calendar year, the PHA may resume leasing but must first notify the Shortfall Prevention Team. Any excess set-aside funding awarded for insufficient funding must then be returned to HUD as it was not needed for its intended purpose.

HUD also recognizes that attrition PHAs (PHAs that are projected to make it through calendar 2013 without an actual funding shortfall by stopping leasing and using NRA/reserves) may find themselves in a shortfall position later in the year should conditions that impact program costs (e.g., attrition rates and per-unit-cost increases) vary from assumptions used to estimate the PHA's current financial situation. As a result, the application period for set-aside funding will remain open indefinitely for insufficient funding requests, subject to the availability of funds.

As a cost-savings measure to prevent the terminations of families due to insufficient funding, HUD has in the past granted waivers to allow PHAs to make payment standard and utility allowance decreases for families under HAP contract effective earlier than the regulatory provisions allow. These waivers place financial burdens on participating families and therefore are only approved as a last resort to prevent terminations of families. Because the estimated cost to prevent terminations due to insufficient funding at present appears to be less than the amount of set-aside funding that is available, the hardship on the families that would result from the waiver does not appear to be justified at this time. Consequently, HUD is not approving those types of waiver requests at this time but instead will give priority for set-aside funding to PHAs that despite taking the reasonable cost savings measures described above would otherwise still have to terminate families as the result of insufficient funding.

HUD has also received questions from concerned PHAs regarding whether a PHA that believes it may be in a short-fall position should enter into PBV HAP contracts for units that are under AHAP. Since the set-aside can be used to provide additional funding for units that were under AHAP during the 12 month re-benchmark period, PHAs should proceed to execute PBV HAP contracts at this time if the terms and conditions of the AHAP have been met. (PBV HAP contracts, like tenant-based HAP contracts, may be terminated due to insufficient funding.) As noted above, PHAs that execute PBV HAP contracts for units under AHAP as of the date of this letter are still eligible for priority set-aside funding, provided the conditions outlined above are met.

Taking steps to implement necessary cost-savings measures can be a difficult and contentious process, and HUD encourages PHAs in shortfall situations to consider engaging families, landlords, and other stakeholders throughout this process. In some cases, PHAs facing shortfalls have been able to develop better solutions through active engagement and discussions with their program stakeholders. For example, some PHAs have been successful in working with landlords to defer rent increases or voluntarily reduce rents. (Please note that PHAs may not unilaterally reduce the rent to owner in HCV program due to insufficient funding.) Also, engaged stakeholders were able in several cases to get other entities to help fill the funding gap, when PHA efforts to get additional help had been unsuccessful. Public discussion can increase the stakeholders' understanding of the PHA's challenges and their willingness to work constructively together on solutions.

In closing, we do understand the difficulties PHAs face in administering the HCV program, given the funding cuts in both HAP and administrative fee funding. We hope that careful management of the set-aside funding will help alleviate some of the pressures that shortfall agencies are under and by working together we can prevent financial hardship on the families we assist. If you have concerns about your agency's funding position, please do not hesitate to contact your local HUD Field Office.

Sincerely,

Michael Dennis

Digitally signed by: Michael Dennis
DN: CN = Michael Dennis C = US O = Office of Housing Voucher Programs OU = Director
Reason: I am approving this document

Michael S. Dennis
Director
Office of Housing Voucher Programs