



**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Office of Public and Indian Housing**

Special Attention of:

Public Housing Agencies;
HUB Directors of Public Housing;
PIH Program Center Coordinators;
Public Housing Division Directors;
Regional Directors

Notice PIH 2007 -27 (HA)

Issued: August 24, 2007

Expires: August 31, 2008

Cross References:
PIH 2005-7 (HA)

Subject: Disallowed Costs and Sanctions Resulting from On-Site Monitoring Reviews

1. **Purpose.** This Notice replaces Notice PIH 2005-7 and highlights the importance of timely and accurate income and rent determinations by Public Housing Agencies (PHAs), and the consequences for failure to identify and correct income and rent determination deficiencies. Also, PHAs will now be required to reimburse HUD 100 percent of disallowed costs for PHA errors identified in the Housing Choice Voucher (HCV) program. The Department has worked closely with PHAs nationwide in identifying the root causes of such deficiencies and developing corrective action plans to reduce the level of errors in subsidy calculations through the use of on-site monitoring reviews, reviews conducted by the newly established Quality Assurance (QA) teams and other related reviews. This Notice addresses:
 - ❑ PHA reimbursement of 100 percent of disallowed costs to HUD for PHA errors identified in the HCV program that exceed \$2,500;
 - ❑ Incentives and disallowed costs;
 - ❑ Sanctions for failure to timely respond to monitoring review reports and failure to implement a Corrective Action Plan when required;
 - ❑ Adjustment of Section 8 Management Assessment Program (SEMAP) scores when inconsistent with the findings of an on-site monitoring review; and
 - ❑ Self-Assessment Reviews.
2. **Applicability.** This Notice applies to Public Housing (PH) and HCV programs.
3. **Effective Date.** This Notice is effective [insert date], and its application is mandatory for all on-site monitoring reviews, required PHA responses and corrective actions subsequent to [insert date].

4. **Overview.** HUD is under a Presidential mandate to reduce income and rent errors in its rental housing assistance programs. The Improper Payments Information Act of 2002 (Public Law No: 107-300) further requires the annual measurement and reporting of erroneous federal payments. HUD has made considerable progress in reducing income and rent errors in its rental housing assistance programs. HUD is the first federal agency to receive a score of green on improper payments by the Office of Management and Budget (OMB). A Fiscal Year (FY) 2000 baseline estimate of \$3.2 billion in gross annual improper rental assistance payments attributed to program administrator error and tenant underreporting of income was reduced by over 60 percent to approximately \$1.1 billion in FY 2005.

HUD believes comprehensive on-site monitoring of PHAs and the successful resolution of required corrective actions will ensure that the downward trend in error reduction continues.

5. **Incentives, Disallowed Costs, and Collection of Excess Subsidies.** The chart below outlines existing incentives for pursuing tenant fraud and HUD’s policy for the collection of disallowed costs. Disallowed costs relate to PHA errors uncovered during on-site monitoring reviews that result in HUD overpayment of subsidy. Subsidy overpayments must be returned to the appropriate equity accounts as defined below. Disallowed costs due to HUD shall be forgiven if amounts are less than or equal to \$2,500 per PHA program review.

Voucher Program	Overpayment of Subsidy	Underpayment of Subsidy
Tenant Fraud	If a family commits fraud, the PHA may terminate assistance, enter into a repayment agreement for the HAP amount overpaid by the PHA or pursue litigation. PHAs who enter into a repayment agreement with the family to collect excess subsidies owed to the program or pursue litigation to recover excess subsidies, may retain an amount defined under 24 CFR Section 792.202(a) that will flow to Administrative Fees Net Restricted Assets. The remaining balance of the recovery proceeds that the PHA is not authorized to retain must flow to HAP Net	Not Applicable

Voucher Program	Overpayment of Subsidy	Underpayment of Subsidy
	<p>Restricted Assets as directed through this notice in accordance with 24 CFR Section 792.203(b). If the PHA takes none of the actions noted above, all amounts that constitute an overpayment of HAP subsidy in excess of \$2,500 per review must be reimbursed to HAP Net Restricted Assets from Administrative Fees Net Restricted Assets or other non-federal funds.</p>	
<p>PHA Error</p>	<p>If the PHA overpaid HAP due to calculation or other errors in excess of \$2,500 per review, 100 percent of that amount must be reimbursed to HAP Net Restricted Assets from the Administrative Fees Net Restricted Assets or other non-federal funds. In addition, if such errors impacted any funding baseline determinations, funding for the affected renewal periods will be adjusted.</p>	<p>PHAs will not be reimbursed for underpayment of subsidies. PHAs are required to reimburse families for overpayment of the total family share. Such reimbursements of the tenant portion of the rent can be made in current and future months through an increase in HAP to the landlord and a decrease in the family share until the family overpayment is fully compensated. A PHA may not use funds from its HAP account or HAP Net Restricted Assets to directly reimburse families for overpayment of the total family share. If the family did not receive the full amount of utility reimbursement from the PHA, the PHA must reimburse the family. These reimbursements may be paid out of the PHA's HAP account or HAP Net Restricted Assets. Note that a PHA cannot reimburse prior year costs with current year funding.</p>

Public Housing	Overpayment of Subsidy	Underpayment of Subsidy
Tenant Fraud	PHAs who enter into a repayment agreement with the family to collect excess subsidies owed to the program, initiate litigation against the family to recover excess subsidies owed to the program, or begin eviction proceedings against the family may retain 100 percent of funds collected. PHAs who do none of the above must return to HUD all amounts that constitute an overpayment of subsidy.	Not Applicable
PHA Error	If the error impacts the rent roll used for the calculation of operating subsidy, then HUD will calculate disallowed costs based on the subsidy overpayment caused by the PHA error.	PHAs will not be reimbursed for underpayment of subsidies. PHAs are required to reimburse residents for overpayment of tenant rent in accordance with PHA policy

6. **Sanctions.** PHAs must identify and implement corrective actions or rectify errors in meeting program requirements uncovered during on-site monitoring reviews. In the event that a PHA fails to comply with the requirements of the on-site monitoring reviews, HUD will impose sanctions for the voucher and public housing programs pursuant to Section 6(j)(4)(A)(v) and Section 6(j)(4)(A)(ii) of the U.S. Housing Act of 1937; and 24 CFR 990.215 and 24 CFR 982.152(d).

A. **Circumstances Leading to Sanctions.** The following shall result in sanctions: (1) failure to submit a Corrective Action Plan as directed by the field office within the timeframes outlined by the Field Office; and (2) failure to implement corrective actions pursuant to a field office approved Corrective Action Plan.

1. **Housing Voucher Program Administrative Fee Withholding.** Pursuant to 24 CFR 982.152(d), if, as a result of an on-site monitoring review, it is discovered that a PHA does not respond in writing to an on-site monitoring review report within 45 days, or does not implement its corrective actions within the timeframes approved by the field office, 10 percent of one-twelfth of its annual administrative fee amount will be withheld beginning the month the field office makes the sanction effective and lasting until the PHA has complied with the program requirements. Thus, the withholding of the HCV program administrative fee is a *temporary* sanction.
2. **Public Housing Operating Subsidy Withholding.** Pursuant to 24 CFR 990.215, if as a result of an on-site monitoring review, it is discovered that a PHA does not respond to an on-site monitoring review report within 45 days, or does not implement its corrective actions within the timeframes approved by the field office, 5 percent of its monthly scheduled operating subsidy will be withheld beginning with the month the field office makes the sanction effective, and shall last until the PHA has complied with the program requirements. Thus, the withholding of PH Operating subsidy is a *temporary* sanction.
7. **SEMAP Indicator 3 (Determination of Adjusted Income).** Pursuant to 24 CFR 985.2(b) and 985.105(c), an on-site monitoring review may serve as a SEMAP confirmatory review of indicator three and other indicators if they are reviewed in depth during the on-site review. In the event that a PHA's self-certification of SEMAP Indicator three (Determination of Adjusted Income) is not supported by an on-site review, the field office must adjust the SEMAP score for that indicator, regardless of its impact on the PHA's SEMAP performance designation (high, standard, troubled). If, during the on-site review, it is discovered that other indicators are also not supported by file or other documentation, the SEMAP score for those indicators shall be adjusted as well.
8. **Self-Assessment Reviews.** During FY 2007, HUD will be conducting additional on-site monitoring reviews of a PHA's PH and HCV programs. HUD strongly encourages PHAs to conduct self-assessment reviews to quality control and assure that the PHA's income and rent determination process is in compliance with program requirements.
9. **Appeals.** A PHA may appeal the imposition of sanctions, and/or disallowed costs to the HUD field office within 30 calendar days of imposition of adverse action(s) by submitting a written request to the HUD field office via certified mail. **For adjustments of SEMAP scores as a result of an on-site monitoring review, please refer to the SEMAP appeal process.** The written request must provide material evidence or justification of any arguments or additional facts and data concerning the proposed adverse action. The PHA may not request more than one appeal per adverse action (i.e., only one request for an appeal is allowed for the imposition of disallowed costs).

The field office will have 30 calendar days from receipt of a request for an appeal to approve or deny the appeal. If the field office fails to approve or deny the appeal during this time, the appeal will be automatically granted to the PHA. An appeal made to a field office (HUD Hub or program center) and denied, may be further appealed to the Assistant Secretary within 15 calendar days from the date of the denial. The PHA shall submit the appeal via certified mail to the Office of the Assistant Secretary for Public and Indian Housing. Appeals submitted to HUD Headquarters that include material evidence not submitted with the initial appeal to the field office, or appeals made to HUD Headquarters directly, without first being submitted to the field office, will not be considered.

10. **Information Contact.** Inquiries about this Notice should be directed to Nicole Faison, Director, Office of Public Housing Programs at (202) 708-0744; or Danielle L. Bastarache, Director, Housing Voucher Management and Operations Division at (202) 708-0477; or the appropriate HUD field office.
11. **Paperwork Reduction.** The information collection requirements contained in this Notice have been approved by OMB under the Paper Reduction Act of 1995 (44 U.S.C. 3520). In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number. The following active information collections contained in this Notice have been approved under the Paperwork Reduction Act (PRA) – Paragraph 6: Appeals – OMB Control Number 2577-0083 (Family Report), OMB Control Number 2577-0220 and 2577-0230 (Admissions and Occupancy Requirements) and Paragraph 7: SEMAP – OMB Control Number 2577-0215.

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