

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N-95-3859; FR-3830-N-01]

### Annual Factors for Determining Public Housing Agency Administrative Fees for the Section 8 Rental Voucher and Rental Certificate Programs

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Notice of factors for determining public housing agency and Indian housing authority administrative fees for the Section 8 rental certificate and rental voucher programs.

**SUMMARY:** This Notice announces the annual factors for use in determining the on-going administrative fee for housing agencies (HA) administering the rental voucher and rental certificate programs during Federal Fiscal Year 1995.

**EFFECTIVE DATE:** HUD will use the procedures in this Notice to approve year-end financial statements for housing agency fiscal years ending on December 31, 1994; March 31, 1995; June 30, 1995; and September 30, 1995. Housing agencies also may use these procedures to project earned administrative fees in the annual housing agency budget. Housing agencies with a fiscal year starting October 1, 1994, and January 1, 1995, must submit a revised budget to the field office for approval. The procedures in this Notice only apply to that portion of the housing agency fiscal year that coincides with the Federal FY 1995.

**FOR FURTHER INFORMATION CONTACT:** Gerald J. Benoit, Director, Operations Branch, Rental Assistance Division, Office of Public and Indian Housing, Department of Housing and Urban Development, Room 4220, 451 Seventh Street, SW, Washington, DC 20410-8000, telephone number (202) 708-0477. Hearing or speech impaired individuals may call HUD's TDD number (202) 708-4594. (These numbers are not toll-free.)

#### SUPPLEMENTARY INFORMATION:

#### Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB), under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520), and have been assigned OMB control number 2577-0149.

### I. Purpose and Substantive Description

(a) The system that HUD used to determine administrative fees before FY 1995 had three different rates that were applied to the Section 8 existing housing fair market rents. The rate used for rental vouchers funded before FY 1989 was 6.5 percent and for rental certificates funded before FY 1989 was 7.65 percent. These rates were also used for non-incremental rental vouchers and certificates funded after FY 1988. The rate used for incremental rental vouchers and certificates funded after FY 1988 was 8.2 percent. The rate for renewal funding increments was the same as the rate initially used for the expired funding increment.

Housing agencies believe that the HUD method of tying fees to fair market rents does not reflect the actual costs of administering these programs. The problems associated with tying fees to fair market rents were most evident in FY 1994 when the fair market rents for most of the country were decreased based on the decennial census. As a result, HUD sought and Congress approved, for FY 1994 only, a "hold-harmless" provision so that housing agencies would not suffer a reduction in income and thereby jeopardize their ability to properly administer these programs.

(b) Section 8(q) of the U.S. Housing Act of 1937 (42 U.S.C. 1437f(q)) requires the Secretary to establish a fee for the housing agency costs incurred in administering housing assistance under Section 8(b) (rental certificate program) and Section 8(o) (rental voucher program) to the extent provided in appropriations. Section 8(q) is only applicable when so provided in appropriations, and applies only to incremental units funded in FY 1989 and subsequent years. For rental vouchers and certificates subject to Section 8(q), Section 8(q) provides that the on-going fee for each month a dwelling unit is covered by a housing assistance contract is 8.2 percent of the current fair market rent for a two-bedroom dwelling unit subject to appropriations.

(c) All Appropriations Acts, beginning with FY 1989, required that HUD reimburse housing agencies using the formula in Section 8(q) for incremental rental vouchers and certificates provided from those appropriations. The law does not specify the amount of fees for units made available through Appropriations Acts for FY 1988 and earlier or for non-incremental rental vouchers or certificates provided in FY 1989 and subsequent appropriations.

HUD has determined that it is in the best interest of the rental voucher and certificate programs to continue to reimburse housing agencies at a level sufficient to maintain the integrity of these programs. In FY 1995, HUD will reimburse housing agencies for administrative expenses attributable to all incremental and non-incremental rental vouchers and certificates made available from FY 1989 and subsequent appropriations using the formula in Section 8(q). HUD will reimburse housing agencies for pre-FY 1989 units using a new method described below using a fee base developed by HUD, and the resulting per unit fee amounts subsequently will be updated annually using wage and salary data.

### II. Supersedure

On September 26, 1994, HUD issued an administrative Notice (PIH-94-68) establishing the procedures for calculating fees under the rental voucher and certificate programs. On September 28, 1994, the VA-HUD and Independent Agencies Appropriations Act (Pub.L. 103-327) was signed; as enacted, the Appropriations Act required HUD to pay administrative fees for FY 1995 incremental rental vouchers and certificates using the 8.2 percent specified in Section 8(q) of the U.S. Housing Act of 1937. The provisions of the HUD Notice PIH-94-68 are superseded for unit months commencing October 1, 1994. Instead, the provisions of this Notice apply.

### III. Method to Determine Per Unit On-Going Administrative Fee

#### (a) Method for Pre-FY 1989 Fees

A housing agency is paid an on-going administrative fee for each month for which a dwelling unit is covered by a housing assistance contract. Under the revised system, the on-going administrative fee for pre-FY 1989 units is calculated using 8.2 percent of a "base amount" for the first 600 rental vouchers and certificates in the housing agency's program and 7.79 percent of the base amount for each additional rental voucher and certificate above 600. The base amount is subject to a floor and ceiling. The 600 units are the combined total of the housing agency's rental voucher and certificate programs and not 600 for each program.

The "base amount" used by HUD is the higher of (a) the FY 1993 fair market rent for a two-bedroom unit in the housing agency's market area, or (b) the FY 1994 fair market rent for a two-bedroom unit, but not more than 103.5 percent of the FY 1993 fair market rent. HUD established a maximum of \$811