



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

APR -2 2009

Dear Executive Director:

Subject: Inappropriate Use of Housing Assistance Payments (HAP) Funds and HAP Net Restricted Assets (HAP NRA) Accounts – Housing Choice Voucher (HCV) Program

The purpose of this letter is to remind you of your obligations with respect to use of the Housing Choice Voucher (HCV) Housing Assistance Payments (HAP) and the Housing Assistance Payments Net Restricted Assets (NRA) Account (formerly known as Program Reserve Account).

HUD has become aware that some public housing agencies (PHAs) have used HAP and/or NRA funds for ineligible purposes, such as to support administrative costs or public housing expenses. Due to the importance of this issue, a similar letter is being sent to the Chairperson of the Board of your agency.

Each year the Department allocates and distributes HAP funds to each PHA participating in the HCV Program in accordance with the requirements of the Appropriations Act. These HAP funds are used by each PHA to provide HAP assistance on behalf of eligible families in its HCV Program. Eligible HAP assistance expenses include subsidy payments to owners or for homeownership, utility reimbursements to participants where appropriate, and deposits to Family Self-Sufficiency escrow accounts. By law, these HAP funds may not be used for any other purpose. Furthermore, since Calendar Year 2005 these HAP funds may not be used to support vouchers in excess of the number of vouchers provided in the PHA's Annual Contributions Contract (ACC), which are known as the PHA's baseline units.

Over the course of the year, the PHA may find it does not expend the full amount of HAP funds that HUD has provided. Starting in Calendar Year 2005, HUD no longer exercised its option to establish and maintain an ACC Reserve Account for the HCV Program for this unexpended HAP funding. Instead, each PHA was required to establish and maintain its own HAP NRA Account as of January 1, 2005. Any HAP funds from the year that were not used for the eligible program purposes noted above must be deposited by the PHA into its HAP NRA account. For example, assume a PHA received \$1,500,000 from HUD for its HAP costs for Calendar Year 2008. If the PHA had HAP expenses of \$1,400,000 for 2008, the remaining \$100,000 would be deposited by the PHA into its HAP NRA account.

This HAP NRA account is **restricted** and the balance reflects the difference between HAP funding provided to the PHA since January 2005 and the PHA's validated HAP expenses as reported in the Voucher Management System (VMS) for each month. PHAs have been advised in annual HUD Notices regarding Appropriations Act requirements and in annual HCV Program renewal funding letters that funds in the NRA account generated from Calendar Year (CY) 2005 and later appropriations may only be used for HAP needs in that year and future CY HAP needs of the HCV program, and only for units that are within the PHA's authorized baseline. PHAs may only use NRA funds for these purposes. PHAs may not use the funds for other purposes such as Section 8 administrative expenses, public housing program expenses or development costs, or any other costs of the PHA. The use of HAP and/or the NRA Account for any other purpose than those stated above may constitute a default under the ACC. Please see Section 15 of the ACC for HUD's Remedies in the event of a PHA default.

HUD is reviewing data submitted by PHAs in the Financial Assessment Subsystem and VMS, and information from on-site quality assurance and other reviews, to identify those PHAs that may have used their HAP funds and/or NRA account for non-HAP purposes. HUD can take action against any parties that have engaged in the use of HAP funds and/or the NRA account for non-HAP purposes. These actions include, but are not limited to, debarment, administrative fee sanctions, and/or civil money penalties against the appropriate parties.

In those instances where a PHA has misappropriated HAP and/or NRA funds by using the funds for any purpose other than valid HAP expenses for units up to the baseline, HUD requires an immediate return of the funds to the HAP or NRA account. Please also be advised that when HUD calculates the NRA balance for PHAs as of December 31, 2008, any HAP funds provided since January 1, 2005, but not reported as used for eligible HAP purposes are assumed to be available to the PHA in the NRA account. In calculating the off-set of NRA funds as required under the Omnibus Appropriations Act, 2009, HUD will assume that the total NRA balance is available to the PHA, regardless of whether the PHA failed to comply with the requirements concerning use of the NRA and actually spent the funds for other purposes.

Inquiries about this letter should be directed to Miguel A. Fontanez, Director, Financial Management Division, Office of Housing Voucher Programs, at 202-402-4212.

Sincerely,



Danielle L. Bastarache
Director
Office of Housing Voucher Programs