Hot Topics – Current Issues Facing Public Housing Programs

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Hot off the Presses!
- Regulations and guidance changes on a DAILY basis!
- How does an agency keep up?
- 2014 was a BUSY year!
- 2015 promises to be!
- And THEY are watching...
- Have no fear! We are here to help!

Session Objectives
- Discussion of new topics HOT OFF THE PRESSES!
- Provide attendees with sources of information to help stay on top of the latest happenings!
- What's working out there? Engage in discussion on an agency level!
- Learn from each other!
Topics We’ll Cover
- 2015 Appropriations
- President’s Budget for 2016
- Flat Rent Implementation
- Affirmatively Further Fair Housing Marketing Tool Proposed Rule
- Rental Assistance Demonstration

Topics We’ll Cover
- OIG – What are THEY up to?
- Smoke-Free Public Housing
- Streamlining Initiatives – Proposed Rule
- VAWA 2013 Implementation – Proposed Rule
- Digital Opportunity Demonstration

Topics We’ll Cover
- Triennial Recertification of Fixed Income Families
- HCV CY 2015 Funding Implementation
- HCV Administrative Fee Study
- Resources to stay in the know!
- Ready? Set? GO!!!!
2015 Appropriations Update

2015 Appropriations

- 2014 Appropriations Act recap
  - 2013 was a rough year!
  - 2014 - Partial restoration of Sequestration funding
  - Statutory Requirements attached
  - Another Continuing Resolution
  - Lame Ducks had to get to work
  - Changing of the Guard

- 2015 Appropriations
  - 23rd hour agreement to avoid shutdown
  - Still under Sequestration
  - Accompanying statutory requirements
  - We’re getting how much???
  - Public Housing Program – 82-84% Proration
  - Housing Choice Voucher Program – 100% HAP, 74% Admin Fees
  - Capital Fund Program – About 50% of the actual need
2015 Appropriations

• Public Housing Program
  • Initial obligation of 82.35%
  • Up to 85% for April
  • Prorated Subsidy v. Rent – Impact of Occupancy!

2015 Appropriations

• Capital Fund Program
  • Maintained the $1.875 billion from FY 2014
  • CFP Backlog of work – $3.4 billion and GROWING
  • Money required to be released sooner
  • Set asides for ESSG and ROSS

2015 Appropriations

• Housing Choice Voucher Program
  • $17.486 billion, up slightly from 2014
  • 100% of HAP Renewal Eligibility
  • Includes $120M for HAP Set-Aside funding
  • $1.52 billion in admin fees - about 75% proration
2015 Appropriations

- Impact of Sequestration on HCV Programs

![Graph showing National Voucher Lease-up Rates]

2016 President’s Budget

- Public Housing Program
  - 86% Proration – Increase, but...
  - Medical expense deduction threshold increase?
  - $1.97 billion for CFP
  - Fungibility between the OP and CFP funds
  - Reintroduction of the GPNA?
  - Energy efficiency incentives
  - Expansion of RAD

2016 President’s Budget

- HCV Program
  - 100% HAP Proration
  - Increase in special purpose vouchers
  - Increase to admin fees! 90%!!!

- Good news for both programs... but don’t get too excited just yet!
Flat Rent Implementation

- How it came about...
  - "Snuck" in through 2014 App. Act
  - Largely unnoticed until around 3/2014
  - Whispers of future guidance
- PIH Notice 2014-12
  - 05/19/2014
  - Established protocol for implantation
  - Cleared things up… Right?

Flat Rent Implementation (cont.)

- PIH Notice 2014-12 (cont.)
  - Required:
    - Flat Rents to be set no lower than 80% of the applicable Fair Market Rent (FMR) rates for the jurisdiction
    - Published annually
    - Considered in compliance if flat rents already set at that level or above
    - Statutory – no waivers!
Flat Rent Implementation

- PIH Notice 2014-12 (cont.)
  - Required:
    - Amend PHA Annual Plan
    - Public Hearing
    - Board Approval of new Flat Rent Policy
    - Update ACOP
    - Timeline for Compliance
      - 06/01/2014
      - 10/31/2014

Section 210 of the FY 2014 App. Act sets ceiling for increase to existing rent at 35%
- Any increase in excess would have to be phased in annually
- Also consider State and Local Law
- Option to phase in rent increases over three-year period

<table>
<thead>
<tr>
<th>Year</th>
<th>Current Flat Rent</th>
<th>New Flat Rent</th>
<th>Impact Analysis</th>
<th>Income Based Rent</th>
<th>New Family Rent</th>
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<tr>
<td>1</td>
<td>$500.00</td>
<td>$700.00</td>
<td>$675.00</td>
<td>$850.00</td>
<td>$975.00</td>
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<td>2</td>
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<td>$750.00</td>
<td>$913.75</td>
<td>$898.00</td>
<td>$750.00</td>
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</tbody>
</table>
Flat Rent Implementation

- PIH Notice 2014-12 (cont.)
  - Section 210 of the FY 2014 App. Act sets ceiling for increase to existing rent at 35%
  - New admissions after implementation do not qualify for a phase in period
  - Existing families are addressed on a case by case basis
  - Moving from income-based to flat rent does not qualify for phase in

How do utility allowances factor in?

- FMR formula estimates costs to include shelter plus the cost of utilities
- PHAs must determine who is responsible for utility payments
- Adjust flat rent accordingly

<table>
<thead>
<tr>
<th>Payee</th>
<th>Income-Based Rent</th>
<th>Flat Rent</th>
<th>Utility Allowance</th>
<th>Tenant Rent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tenant</td>
<td>$500.00</td>
<td>$400.00</td>
<td>$50.00</td>
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<tr>
<td>PHA</td>
<td>$600.00</td>
<td>$400.00</td>
<td>$50.00</td>
<td>$450.00</td>
</tr>
</tbody>
</table>

Rent option is annual

- Flat rent is not “locked in” for three years
- Pretty simple, right?
Flat Rent Implementation

• PIH Notice 2014-12 (cont.)
  • Issuance of new FMR rates by HUD
    • Determine if the current flat rent is at least 80% of the new FMR
    • Update the FR amounts no later than 90 days of published FMR
      • Does NOT require a Significant Amendment
    • Apply the new flat rents to all new admissions and existing families

Flat Rent Implementation

• PIH Notice 2014-12 (cont.)
  • Life cycle
    • Year 1
      • Full examination of family income and composition
      • Inform family of rent option
      • FMR compliant
      • Updated to include phase in
      • Inform family policies on switching rent types due to financial hardship
      • Apply the rent decision

Flat Rent Implementation

• PIH Notice 2014-12 (cont.)
  • Life cycle
    • Years 2 and 3
      • PHA may conduct full examination of family income and composition, but not required
      • Inform family of rent option
      • FMR compliant
      • Updated to include phase in
      • Inform family policies on switching rent types due to financial hardship
      • Apply the rent decision
Flat Rent Implementation

- PIH Notice 2014-12 (cont.)
  - Life cycle
    - Year 4
      - Full examination of family income and composition
      - Inform family of rent option
      - FMR compliant
      - Updated to include phase in
      - Inform family policies on switching rent types due to financial hardship
      - Apply the rent decision

Flat Rent Implementation

- PIH Notice 2014-12 (cont.)
  - Piece of cake!
    - How is it working for you?
    - What snags have you encountered?

Flat Rent Implementation

- 2015 Appropriations Act
  - Finally some common sense!
  - HUD now has the discretion to allow PHAs to deviate from FMRs to a more locally tailored approach
  - Small Market, Zip Code-based FMRs
  - Other standard that more closely approximates the local market
  - PHAs now have a relief mechanism
  - Expect HUD Guidance
Affirmatively Furthering Fair Housing

Fair Housing

- Proposed Rule on July 19, 2013
  - FR 78.139.07-19-2013
  - Ensures non-discrimination by recipients of federal housing funds
  - Obligates proactive steps to address segregation
  - Provides that PHA development related activities meet the goals of AFFH

Four articulated Goals:
- To reduce racially or ethnically concentrated areas of poverty
- Reduce segregation and promote integration
- Reduce disparities in access to community assets
- Address disproportionate housing needs by protected classes.
Fair Housing

Proposed Rule on July 19, 2013

- Much more detailed planning process than currently exists
- Regional approach to addressing fair housing issues
- Mandates public participation in the development of plans
- Several new definitions

Assessment of Fair Housing (AFH)

- Replaces the Assessment of Impediments (AI)
- Completed by program participants (PHAs) with HUD data and guidance
- Submitted to HUD in advance of the PHA Plan Submission
- HUDs approval based on standards of acceptance
- Required for PHA Plan approval
- Submission timeline

PHA cooperation in the creation of the AFH considered a predicate to the PHA’s AFFH certification

PHA has options in preparation of AFH

Incentive to participate in the new collaborative AFH
Fair Housing

- Proposed Rule on July 19, 2013
- Assessment of Fair Housing (AFH)
  - Required to include:
    - A summary of fair housing issues and capacity to address
    - Analysis of data
    - An assessment of determinants of fair housing issues
    - Identification of fair housing priorities and general goals
    - A summary of community participation.

Fair Housing

- Proposed Rule on July 19, 2013
- New Record Keeping Requirements
  - Data used to develop AFH
  - Compliance records
  - AFFH Action documented
  - Judicial or administrative findings
  - Amends existing certification statement

Fair Housing

- Proposed Rule on July 19, 2013
  - “The opportunity to choose where one lives free from obstacles related to race, color, religion, sex, familial status, national origin, or disability is essential to the ability to engage as a full member of one’s community. This promise of fair housing choice requires vigorous enforcement of laws barring discrimination, and proactive planning, strategies, and actions. HUD is committed to taking active measures to build on progress made to affirmatively further fair housing, while confronting the reality that more must be done. This proposed rule offers such active measures.”
Fair Housing

- Significant Concerns on Final Rule
  - Does HUD have the capacity to effectively monitor and oversee this process?
  - Competing policies
  - Lack of clarity beyond planning
  - Tremendous amount of uncertainty
  - Significant administrative burden

Fair Housing

Rental Assistance Demonstration (RAD)
Rental Assistance Demonstration

- What is RAD?
- Idea is to preserve properties in jeopardy of Demo/Dispo
- Lender-based funding opportunities
- "Funding Certainty"
- Is RAD the answer?
  - Depends on the QUESTION

Rental Assistance Demonstration

- Initial statutory cap of 60,000 units
- Contingent approval letters sent to PHAs above the cap level
- Waitlist currently at 117,214 units over 961 properties
  - Approximately 7,786 unit slots left
- Total construction activity: $350M
  - $49,651.00 per unit

Rental Assistance Demonstration

- Criticism/Skepticism
  - Portability of new vouchers
  - Funding uncertainty
  - Privatized public housing
  - Foreclosure risk
- Any RAD properties?
  - What’s working with it?
  - What’s not working?
HUD’s Office of the Inspector General (OIG)

• Old school!
• Four primary objectives
• Detect, recommend remedy, and prevent fraud, waste, abuse, and mismanagement
• Five Offices within OIG
• Fraud Hotline

So what are they up to these days?
• Field Audits
  • Internal Audits
  • HUD Offices, programs, and oversight
• External Audits
  • PHAs
• Stay informed!
  • https://public.govdelivery.com/accounts/USHUDOIG/subscribers/new?preferences=true
HUD’s Office of the Inspector General (OIG)

• So what are they up to these days?
  • The OIG’s Attack on the COCC!
  • Challenging COCC fee structure under asset management
  • Gained a little Congressional steam
  • Advocacy groups to the rescue!
  • HUD’s response? Well.....

HUD’s Office of the Inspector General (OIG)

• So what are they up to these days?
  • COCC Fee Evaluations!
  • PHAs already being contacted by HUD
  • Be Ready if they do!
  • Review fee structure for compliance
  • Appropriate cost distribution between AMPS and the COCC
  • Monitor COCC expenditures closely
  • PIH 2007-9 Supplement

HUD’s Office of the Inspector General (OIG)

• Recent findings on Confidentiality
  • Improper release of personally identifiable information
  • Signatures for release not obtained

• Any OIG stories out there to share?
Smoke Free Housing

- Supported/Suggested by HUD
- Notice H2010-21
- Published Toolkits
  - Owners/Management
  - Residents
- Partners
  - American Lung Association
  - American Cancer Society
  - Local Health Departments

Smoke-Free Housing

- Current numbers
- Renewed push from HUD in 2015
- Any agencies here Smoke-Free?
  - How is it going?
  - What’s working?
  - What isn’t working?
- Any considering it?
Streamlining Initiatives

- Triggering Events and Timelines
  - Sequestration
  - Notice PIH 2013-03
  - Notice PIH 2013-26
  - Notice PIH 2015-04
  - Appropriations Act of 2014
  - Federal Register 79.122.06-25-2014
  - Federal Register 80.3.01-06-2015

Streamlining Initiatives

- Notice PIH 2013-03
  - Established temporary guidelines for public housing agencies in fulfilling certain Public Housing (PH) and Housing Choice Voucher (HCV) program requirements during this period of decreased resources available to PHAs
  - Extended through Notice PIH 2013-26
  - Expired 03-31-2015 per PIH 2015-04
Streamlining Initiatives

- 2014 Appropriations Act
  - Flat Rent
  - PHA Consortia
  - HQS – Biennial Inspections
  - Redefined Extremely Low Income
  - Utility Allowances

Streamlining Initiatives

- Federal Register 79.122.06-25-2014
  - Housing and Economic Recovery Act of 2008 (HERA)
    - Majority applies to PBV
    - Changes affecting TB HCV

Streamlining Initiatives

- Federal Register 80.3.01-06-2015
  - Provisions of 2013-03 and 2013-26 proposed to be made permanent through rulemaking process
  - Additional changes contained within the proposed rule
    - PH Program
    - HCV Program
    - PH/HCV Programs
    - PH/HCV/MFH
Streamlining Initiatives

- Federal Register 80.3.01-06-2015
  - PH Program Proposed Rule
    - PH Rents for mixed income families
    - Flat Rent Implementation
    - Self Certification for CSR
    - Grievance Procedures
    - Subsidizing Limited Vacancies

- Federal Register 80.3.01-06-2015
  - HCV Program Proposed Rule
    - Start of Assisted Tenancy
    - Biennial Inspections
    - HQS Reinspection Fees
    - Payment Standard Exceptions - RA

- Federal Register 80.3.01-06-2015
  - HCV Program Proposed Rule (cont.)
    - Regular and Interim Reexaminations
    - Utility Payment Schedules
Streamlining Initiatives

- Federal Register 80.3.01-06-2015
  - PH/HCV Program Proposed Rule
    - Utility Reimbursements
    - Earned Income Disregard
    - Declaration of Assets < $5,000.00

Streamlining Initiatives

- Federal Register 80.3.01-06-2015
  - PH/HCV/MHF Program Proposed Rule
    - Verification of SSN
    - Definition of ELI
    - Exclusion of Education Fee Income
    - Use of Past Income
    - Streamlined Annual Reexaminations

Streamlining Initiatives

- Federal Register 80.3.01-06-2015
  - Comment Period ended 03/09/2015
  - HUD requested specific comments for certain initiatives
  - HUD has promised expedited processing of comments to get to the Final Rule
  - How does this all sound to you? Thoughts?
The Violence Against Women Reauthorization Act of 2013 (VAWA)

Applicability to HUD Programs

VAWA 2013 & HUD

- What Exactly is VAWA?
  - Developed in the late 1980's and early 1990's
  - Original passage in 1994
  - Several reauthorizations
    - 2000
    - 2005
    - 2013
  - The first significant legislation to address domestic and sexual violence

- What Exactly is VAWA? (cont.)
  - Protections for victims of domestic, dating, stalking violence
  - Not just for women
  - Emphasis on coordinated community response
    - Agencies
    - Police
    - Courts
  - Applicability to HUD housing programs
VAWA 2013 & HUD
- So if already applicable, what’s changed?
  - Federal Register 80.62.04-01-2015
    - Issued April 01, 2015
    - Proposed rule would codify the provisions of 2013
    - Continues prohibition against denials or terminations
    - Expands VAWA’s reach into HUD programs
    - Another step forward, but a few concerns exist

VAWA 2013 & HUD
- So if already applicable, what’s changed?
  - New definitions
    - Adds the term “sexual assault” as a covered action
    - “Affiliated individual” replaces “immediate family member”
    - Adds “covered housing provider” – expands to other programs (Not just PHAs)
    - Amends definition of “bifurcate” by removing reference to Public Housing or Section 8 leasing

VAWA 2013 & HUD
- So if already applicable, what’s changed?
  - New Notice Guidelines
    - HUD required to develop “Notice of Occupant’s Rights” which PHAs would then provide to applicants/tenants
    - New HUD certification form
    - Enhanced occupant notification:
      - The applicant is denied residency in a dwelling unit
      - The individual is admitted to a dwelling unit
      - With any notification of eviction or notification of termination of assistance
      - In applicable languages
VAWA 2013 & HUD

- So if already applicable, what’s changed?
  - Clarifies Documentation
    - PHAs can request documentation when an occupant has requested the protections of VAWA
    - Applicant must provide documentation within 14 days of the request, though extensions may be granted
    - What happens if they don’t provide the requested info?

- Transfers
  - Model emergency transfer plan developed by HUD for use by PHAs, owners, managers, etc.
  - Must allow tenants who request VAWA protections to transfer to another available and safe dwelling under a covered housing program
  - Transfer only if the tenant requests it under VAWA
  - Any transfer is still subject to availability of other assisted housing and all other HUD requirements

- Terminations
  - VAWA protections in regards to termination of the lease
  - Prohibition against termination when person has been victim of domestic, dating, stalking, or sexual assault
  - Perpetrator and victim in the same household?
  - Bifurcation of the lease
  - PHAs may still terminate due to any lease violation unrelated to VAWA protections
**VAWA 2013 & HUD**

- **So if already applicable, what’s changed?**
  - **Terminations**
    - Remember… PHA has the right to request documentation…
    - and the tenant requesting VAWA protections must provide it
    - Any information submitted must be appropriately safeguarded
    - Other changes to documentation and confidentiality requirements

**HCV: Administrative Fee Study and Funding Implementation**

**HUD’s HCV Study**

- **Study Design**
  - Measured staff time devoted to various HCV Administrative tasks
  - 60 High-Performing PHAs
  - Research calculated the full admin costs of the PHAs
  - Looked at cost drivers impacting expenses
  - Developed formula that, if adopted, would be the new basis for calculating ongoing administrative fees
HUD’s HCV Study

• Findings
  - Average of 13.8 hours per voucher per year spent on frontline activities
  - Intake, lease-up, annuals, inspections
  - Largest amount of time spent on “Ongoing Occupancy”
  - Average cost per voucher for PHAs in the study ranged from $42 - $109 per UML
  - Actual fees received covered between 45% - 115% of the PHAs actual costs

HUD’s HCV Study

• Findings
  - Largest share of costs (35%) attributable to program size and local wages (payroll)
  - PHAs grouped into two sizes
    - Fewer than 500
    - 500 or more
  - Other major drivers of admin costs
  - Thus, we have the seven variables the new formula would be based upon

HUD’s HCV Study

• Findings
  - Largest share of costs (35%) attributable to program size and local wages (payroll)
  - PHAs grouped into two sizes
    - Fewer than 500
    - 500 or more
  - Other major drivers of admin costs
  - Thus, we have the seven variables the new formula would be based upon
  - 65%/35% Variation Predictability
HUD’s HCV Study

- Findings
  - Largest share of costs (35%) attributable to program size and local wages (payroll)
  - PHAs grouped into two sizes – magic number is 500
  - Other major drivers of admin costs
  - Thus, we have the seven variables the new formula would be based upon
  - 65%/35% Variation Predictability
  - Inverse pattern of cost per unit

- How would it work?
  - Cost drivers looked at over a span of multiple years
  - Three variables analyzed on 3-yr average
    - Health insurance cost index
    - % of Households with earned income
    - New admissions rate
  - New formula would eliminate portability billing
    - Instead get 100% of your own admin fees
    - Earn 20% for port-outs administered by other PHAs

- What would it look like?
  - Inflation factor applied as study conducted in 2013
  - Affect on PHA eligibility
  - Based on the study and the new formula, eligibility would be approximately 95%
  - HUD estimates 92% of PHAs would be gainers
    - The other 8% of PHAs... 🎉
  - Now... we just wait and see!
HCV 2015 Funding

- PIH Notice 2015-03
- HUD Webcast on 02/24/2015
- Detailed implementation of HCV program funding provisions under the Appropriations Act 2015
- Each PHA receives individual funding letters

HCV 2015 Funding

- Specifically detailed:
  - Calculation of HAP Renewal Funding
    - Based on 01/01/2014 – 12/31/2014 VMS leasing/cost data
  - HAP Disbursements and Frontloading
    - January through March funding at approximately 99.5%
    - Frontloads will continue to be available, up to BA (request)
  - $120M Set-Aside Funding – Deadline 04/15/2015
  - $1.52B Admin fees – approx. 75% proration
  - $10M in Special Fees

HCV 2015 Funding

- Specifically detailed:
  - Moving to Work (MTW)
  - Tenant Protection Vouchers (TPV)
  - Veterans Affairs Supportive Housing (VASH)
  - Mainstream 5-Year Vouchers (MS5)
  - Family Self-Sufficiency (FSS)
**Digital Opportunity Demonstration**

**Digital Opportunity**
- Broadband Use in HUD-Assisted Homes
  - Bringing internet connectivity to HUD-assisted students and their families
  - Demonstration
    - 20 HUD-assisted communities selected
    - Criteria: commitment, plans, and leverage in place
    - Forum for cross-sector collaboration
    - Forthcoming Federal Register

**Other Quick Hits!**
Quick Hits
• Federal Court Ruling on Use of Medical Marijuana
• House and Senate working on 2016 Budget
• New Section 3 Proposed Rule out
• ROSS Grants announced
• REAC V and HQS
• Triennial Recertifications for fixed income families?
• Don’t Blink!

Hot Topics
What else is happening out there?
(Hint: this is your turn 😊)

Resources to Keep Your Agency “In the Know”
Stay Informed!

- HUD Mailing Lists

- OIG Mailing Lists

Stay Informed!

- PIH Notices
  - HUD Client Information Policy Systems (HUD Clips)

- HUD User Data Sets
  - [http://www.huduser.org/portal/home.html](http://www.huduser.org/portal/home.html)

- Federal Registers
  - [https://www.federalregister.gov/](https://www.federalregister.gov/)

Stay Informed!

- Advocacy Newsletters
  - NAHRO
    - [http://www.nahro.org/](http://www.nahro.org/)
  - PHADA
  - CLPHA
    - [http://www.clpha.org/](http://www.clpha.org/)
  - Casterline
    - [http://www.casterline.net/page/page/1637720.htm](http://www.casterline.net/page/page/1637720.htm)
  - BDO
    - [https://bdophinance.com/](https://bdophinance.com/)
Stay Informed!

- Other Sources of Information
  - Facebook
  - Twitter
  - You Tube
  - RSS Feeds
  - Search Fetchers
  - Each Other!

Questions???

Thank You!

Thank you for your participation and attention!

Enjoy the remainder of the Clinic!

Join me for “Tackling the Tough Issues Facing Occupancy” after lunch!