

# **THE USES OF DISCRETIONARY AUTHORITY IN THE TENANT-BASED SECTION 8 PROGRAM**

## **A Baseline Inventory of Issues, Policy, and Practice**

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November 2000



## FOREWORD

Public Housing Agencies (PHAs) that operate tenant-based Section 8 programs have a great amount of discretionary authority to establish tenant selection preferences and rent policies as well as policies in many other areas that directly affect the housing opportunities available to voucher holders. Although PHAs had discretion in some of these areas prior to the enactment of the Quality Housing and Work Responsibility Act (QHWRA) of 1998, the Act expanded their discretionary authority and made it permanent.

At the same time that QHWRA expanded the discretionary authority of PHAs, it required them to adhere to some fundamental guidelines regarding the income profile and the rent burden of families served. Thus, 75 percent of new voucher holders that PHAs select must have income no greater than 30 percent of the metropolitan area median, and these families cannot assume rent burdens that exceed 40 percent of their income. By intent, QHWRA's various provisions challenge PHAs to weigh and balance a variety of considerations when setting policies that guide their Section 8 programs.

Because the public housing agencies that operate the program have so much discretionary authority and because local needs and priorities are so disparate, it is to be expected that there would be great variation from PHA to PHA in tenant selection preferences, rent policies, and other policies affecting the housing opportunities available to voucher holders. The purpose of this study is to document this variation as well as to provide a record of what factors PHAs considered as they set policies to guide their Section 8 programs. In carrying out this purpose, the current study serves as a companion to a 1999 study on the uses of discretionary authority in the public housing program.

As in the earlier study, understanding how PHAs are exercising their discretionary authority will help the United States Department of Housing and Urban Development in its ongoing program reviews. In addition, such knowledge may be of interest to Congress as it considers the impact of its legislation. Finally, the study offers a way for the public housing community to keep abreast of what its members are thinking and doing.

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IN THE TENANT-BASED SECTION 8 PROGRAM**

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# THE USES OF DISCRETIONARY AUTHORITY IN THE TENANT-BASED SECTION 8 PROGRAM

## EXECUTIVE SUMMARY

The Quality Housing and Work Responsibility Act of 1998 (QHWRA) significantly expanded the discretionary authority provided to public housing agencies operating Section 8 voucher programs. Section 8 program administrators now have a great deal of discretionary authority to establish policies and implement procedures to run their programs in ways that are congruent with their local priorities and their sense of mission. This authority is tempered by a number of statutory, regulatory and other imperatives that require them to weigh and reconcile competing program objectives. When making policy choices, Section 8 program administrators must also take account of their local economies, including the housing and labor markets. Before making choices that have resource implications, they must also assess their administrative capacity. To some extent, the size of a public housing agency (PHA) and the region in which it is located affect these choices. The policy decisions that PHAs make are also affected by the extent to which information about the Section 8 Program is disseminated to and assimilated by them.

In this study, HUD's Office of Policy Development and Research has documented 1) the variation among PHAs in the policies they have chosen in the areas of tenant selection, occupancy and screening, extending housing opportunities, and rent policies; and 2) their understanding of the factors that have influenced their policy choices.

### What PHAs are Doing and Why

One of the goals of QHWRA was to make permanent and to expand PHAs' discretionary authority in tenant selection as well as in other program areas so that local administrators could mold the program to fit local priorities. The evidence collected for this study indicates that PHAs are using their discretionary authority to make local policy choices that are compatible with their interpretation of their mission. Some continue to regard themselves as "housers" of last resort who are committed to providing a safety net for those who are in greatest need, while others believe that they should be operating within the broad welfare reform mandate of helping people achieve greater self-sufficiency. Still others combine both missions. Thus:

- Over one-quarter of PHAs have adopted an exclusive local preference for households on a self-sufficiency track;
- About 14 percent use exclusively "needs-based" tenant selection preferences, with about 12 percent using the old Federal housing-related hardship preferences;
- Only about two percent are exclusively using other needs-based preferences such as old age and disability; and,

- About 60 percent of PHAs combine needs-based with other local preferences, including those for households on a self-sufficiency track who are either in training or actually employed.

There are a number of “carrots and sticks” built into the program to encourage PHAs to exercise their discretion in a manner compatible with important program goals. The legal and regulatory system deliberately sets up a number of interactions between program rules: e.g. between PHA selection preferences and income targeting, to ensure that the program continues to be used primarily to assist extremely low-income households; and between the payment standard and the 40 percent rent burden cap, to ensure that the payment standard is reasonable but still set high enough to avoid undue rent burdens. Indeed, PHAs make it plain that they are being challenged to satisfy multiple program objectives. Thus, they can elect to serve households on a self-sufficiency track, including those who are already employed, but they must also ensure that at least three-fourths of newly assisted households are extremely low-income. They can opt for a low payment standard as long as program participants are not unduly affected by the rent burden limits.

As intended, the Section 8 Management Assessment Program (SEMAP) is also encouraging important programs goals such as full utilization of funds, deconcentration, etc. PHAs report that SEMAP sometimes causes them to consider policy choices that they might not otherwise make.

- Some PHAs that might otherwise select a payment standard at the low end report deciding not to, either to earn a deconcentration bonus or to earn SEMAP points for keeping their utilization rate high. Just eight percent of PHAs have adopted the minimum payment standard of 90 percent of FMR.

The local economy, including the housing market, is also often cited as having an impact on the policy options that PHAs select. In particular, PHAs look for ways of compensating for, or adapting to, tight housing markets. In fact:

- PHAs in very tight housing markets indicate that they are strongly motivated to select a payment standard at the high end;
- PHAs that are in high-cost housing markets like California believe that adopting a homeownership program is not a viable option for them; and,
- PHAs that believe there are many areas of concentrated poverty in their jurisdiction feel they have little alternative but to encourage portability.

PHAs also frequently cite administrative burden and resource limitations to explain their choice of policies and procedures that represent the course of least resistance, but that are not necessarily their clear program preferences. Such choices include charging a zero minimum rent to avoid the necessity of holding hardship hearings; deciding against performing interim certifications and recalculating the subsidy between annual certifications on families

whose incomes have increased; conducting limited criminal background checks; and relying on sources of market data that are readily available, but not necessarily the most comprehensive, in order to conduct rent reasonableness determinations. Although concern about lack of staff and financial resources is not the only reason these choices, this concern contributes substantially to the fact that:

- Almost 15 percent of PHAs have set their minimum rent at zero;
- A little less than one-fifth of PHAs are relying exclusively on state or local sources of information when they conduct criminal background checks;
- Close to one-third of PHAs are relying on information to conduct rent reasonableness determination that was not assembled to be comprehensive; and,
- Almost two-thirds of PHAs always absorb families who port in from another PHA.

PHAs are also influenced in the policies and procedures they adopt by their size and, to some extent, the geographic area in which they are located. Both size and region are sometimes surrogates for resources available to a PHA, the level of impact they associate with adopting particular policies, and the extent or urgency of problems like concentration. For example:

- Very large PHAs make a special effort to encourage participants to search in low-poverty areas, and larger PHAs are also most likely to make a special effort to encourage landlord participation in such areas;
- Very large PHAs are most likely to wait for the annual certification to recalculate the subsidy of a participant whose income has gone up, whereas small PHAs are most likely to always recalculate the subsidy before the annual certification;
- Small authorities are most likely to rely exclusively on informal sources to conduct criminal background checks. More than one third of them do;
- Small PHAs never use contractors to conduct rent reasonableness determinations and most often depend on HQS inspectors to do them; and,
- Payment standards as a percent of FMR are highest in the Northeast and the West where housing prices are also higher.

Local program size also makes a difference in terms of the resources that can be tapped, not only within the PHA but within the large community where the PHA is located. Thus:

- Small and medium PHAs are least likely to consider the homeownership option; and,

- Although nearly 60 percent of all PHAs permit the use of vouchers for at least some special housing types (including single room occupancy housing, congregate housing, group homes, shared housing, and cooperative homes), very large PHAs are most likely to allow their use for all special housing types.

Finally, there appears to be a significant information lag affecting the policy choices that PHAs make as they set payment standards. A surprisingly large number of PHAs are unaware of the new renewal rule published in October 1999 that renews funding for voucher units under contract by factoring in a PHA's actual per unit costs for the previous year.<sup>1</sup> Although a PHA that raises its payment standard from 90 to 110 percent of FMR will now be compensated at the higher level at the beginning of its next funding cycle, some PHAs are reporting the need to make the kind of tradeoffs between quantity and quality that would have been attributable to the old funding rule. Because the old funding rule allotted a fixed pot of money, PHAs electing a higher payment standard were required to serve fewer families. This suggests a need for training and technical assistance to make PHAs more aware of their current policy choices.

## **The Effect of Regulatory Changes on Future Program Directions**

The tenant-based Section 8 program is by no means static. Since the enactment of QHWRA, the regulatory environment has continued to change and, as it does, so will the choices that PHAs make about running their program. It may take a while for program rules that have been in effect for only a short time and those that have been recently published to have an impact on the way in which discretionary authority is exercised.

Also, the Department has recently published an interim rule allowing certain PHAs to set their payment standards based on the 50<sup>th</sup> percentile rents of standard quality units, rather than the 40<sup>th</sup> percentile FMRs.<sup>2</sup> The policy also increases FMRs to the 50<sup>th</sup> percentile in certain metropolitan areas in order to promote greater deconcentration and mobility. This policy will ensure that families with vouchers living in metropolitan areas will have access to at least one-half of all newly available units in these areas. Raising the FMRs to the 50<sup>th</sup> percentile, or allowing payment standards based on the 50<sup>th</sup> percentile rents in such areas, should help allay PHA concerns about policies to promote residential choice and deconcentration. The interim rule will remove some of the obstacles to achieving satisfactory success rates and fostering housing choice.

As PHAs continue to exercise their discretionary authority to shape their tenant-based Section 8 programs, these and other rule changes will no doubt influence the policy choices they make. For this reason, it will be useful to continue to monitor their policy choices in the changing regulatory environment.

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<sup>1</sup> 24 CFR Part 982

<sup>2</sup> 24 CFR Parts 888, 982, and 985





# **THE USES OF DISCRETIONARY AUTHORITY IN THE TENANT-BASED SECTION 8 PROGRAM: A Baseline Inventory of Issues, Policy, and Practice**

## **I. INTRODUCTION**

This report focuses on the use of discretionary authority in the tenant-based Section 8 Program. It is a companion to a study published in July of 1999 on “The Use of Discretionary Authority in The Public Housing Program.” To some extent, public housing agencies (PHAs) have had long-standing discretionary authority in their implementation of the Section 8 program. More recent legislation has both extended its scope and placed some limits on it. As a result of their discretionary authority, variation is to be expected in the way programs are being operated at the local level. The report is an attempt to record some of that variation and to identify factors that might explain place-to-place differences.

One important source of PHA increased discretionary authority in the tenant-based Section 8 and public housing programs results from the passage of the Quality Housing and Work Responsibility Act of 1998 (QHWRA), otherwise known as the Public Housing Reform Act. Among other things, the 1998 Act merged and reformed the Section 8 certificate and voucher programs.<sup>3</sup> The Act also eliminated mandatory Federal preferences, and gave PHAs the flexibility to use only local preferences in tenant selection. This flexibility had already been available to housing agencies through the appropriations process, but it was permanently established by the 1998 Act. Furthermore, QHWRA gave agencies additional discretionary authority in such critical areas of program operation as setting the payment standard for rent.

In general, local program administrators have greater latitude not only in day-to-day operations but also in how they carry out their basic program mission. Thus, agencies can decide whether they want to provide a safety net against some of the housing-related or other hardships experienced by extremely poor households, or emphasize assistance to households moving toward self-sufficiency, or combine both missions.

At the same time that QHWRA gave permanent status to and extended some areas of discretionary authority, the Act also set some important conditions. Most notably, QHWRA imposed income targeting requirements for most newly admitted households and a rent burden maximum for newly voucher holders. Seventy-five percent of new voucher holders must have adjusted incomes that are at or under thirty percent of the metropolitan area median, and they cannot assume rent burdens that exceed 40 percent of their income. While these conditions do not directly dictate how housing agencies exercise their discretionary authority, local tenant selection and rent policies have to be compatible with the new income and rent burden limits.

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<sup>3</sup> On October 21, 1999 HUD published a final rule implementing the statutory merger of the Section 8 tenant-based and certificate programs into the Housing Choice Voucher Program.

The Section 8 Management Assessment Program (SEMAP) rating system is also part of the environment within which voucher program administrators exercise their discretionary authority. Among other items, PHAs are rated on their lease-up rates, on whether they have a written admissions policy, a written method to determine and document rent reasonableness, and a policy to encourage participation by owners of units outside areas of poverty or minority concentration. A PHA's failure to correct deficiencies will affect its performance rating.

The character of the tenant-based Section 8 program has also been affected by the many special purpose or targeted vouchers that have been placed into circulation in recent years, including those for the mainstream, designated housing, and family unification initiatives. To put the special allocations into perspective, between 1995 and 2000, they were the only new vouchers in circulation, although non-earmarked vouchers have also been in circulation as a result of turnover.<sup>4</sup> In fact, for every special allocation voucher issued during this period, there were approximately three vouchers put back into circulation as a result of tenant turnover. This year, for the first time since 1995, housing agencies have received new fair-share allocations for tenant-based Section 8 that are not earmarked for some special purpose.

Although it is not the kind of discretionary authority legislated by QHWRA, PHAs are also free to make procedural and administrative decisions in a number of program areas that have important consequences in terms of whom they serve and how they use their resources. Often this kind of discretion has to do with decisions about the information that is gathered and the processes that are put in place in support of such functions as the control of the voucher waiting list, checking for criminal background of prospective voucher holders, and the carrying out of rent reasonableness determinations to ensure that unit rent charges are in line with comparable units in the market. Because the use of different management procedures can lead to different program outcomes, procedural choices in these areas will also be described.

Finally, program size, local economies, local housing markets, and regional differences also factor into the way tenant-based Section 8 program administrators use their discretionary authority and, for this reason, will be part of the discussion.

## **Methodology**

This report relies on informal discussions held with officials at a range of housing agencies in order to estimate the extent to which, and how, discretionary authority has been implemented by housing agencies that are administering tenant-based Section 8 programs. PHAs were chosen on the basis of generally accepted methods of stratified random sampling (see Appendix A for a full description of the sampling frame and analytic methods used here – the appendix also contains comparisons between the sample members and the universe of

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<sup>4</sup> Vouchers available as a result of turnover are those that are freed up when participants leave the program.

housing agencies they represent). At this point, however, it is useful to present a brief description of the sample members and the strata upon which they were selected.

Several hypotheses dictated the selection of sample strata: that the size of a PHA's tenant-based Section 8 Program would have an impact on policy implementation and that a PHA's region would also influence policy implementation insofar as region is a proxy for differences in housing markets and local economies. Therefore, size and region became the strata for selecting PHAs to participate in this study. The regions used to create the regional strata were the Northeast (Connecticut, Massachusetts, Maine, New Hampshire, Vermont, Rhode Island, New York, and New Jersey), Mid-Atlantic (Delaware, Maryland, Pennsylvania, West Virginia, and the District of Columbia), South (Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia), Midwest (Iowa, Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, North Dakota, Nebraska, Ohio, South Dakota and Wisconsin), Southwest (Arizona, New Mexico, Oklahoma, and Texas), West (California, Colorado, Nevada, Utah, and Hawaii) and Northwest (Idaho, Montana, Wyoming, Washington, Oregon, and Alaska).

For purposes of this study, small programs were designated as those with between 100 and 999 units. Medium-Sized programs were those that contained between 1,000 and 2,499 units, and large programs were those that contained 2,500-5,999 units. Very large programs included those with 6,000 or more units.

Housing agencies with fewer than 100 units were excluded from the sample. Since PHAs with fewer than 100 vouchers constitute about one-third of all PHAs (although a much smaller proportion of total vouchers in circulation), including them in a representative sample would have required more time and staff resources than were available. The result is a sampling universe that represents 70 percent of the agencies operating tenant-based Section 8 programs (1,786 out of 2,553 PHAs), but still encompasses 98 percent of total units (1,657,998 out of 1,697,717 units).

From the universe of PHAs operating tenant-based Section 8 programs, 167 local agencies and 12 State agencies were selected. To arrive at the final selection of these 167 PHAs, some of the "cells" resulting from combining PHA size with region were over-sampled to ensure a sufficient number of observations in each cell.

For the purposes of analyzing the information provided by PHAs, the sample was split into agencies administering local programs and those administering State programs because the policy choices and constraints of the latter are sufficiently different to require that they be analyzed separately. The current study is confined to the analysis of local programs, with a separate report to be issued on the use of discretionary policies by State agencies.

## **Report Organization**

Beyond this Introduction, the report is organized into three main sections. Section II covers the use of discretionary authority in the areas of tenant selection, occupancy, applicant

screening, and waiting list management. Section III covers the use of discretionary authority in regard to the search process, portability, attracting owners outside of areas of concentration, encouraging participants to search in non-concentrated areas, homeownership, use of vouchers for special housing types, and assistance to the hard to house. Section IV describes discretionary rent policies which include interim examinations, minimum rents, the payment standard, exception rents, and rent reasonableness. The report concludes with a short discussion of evaluation impacts and the next steps toward a full understanding of the impacts of QHWRA on the policies and practices of PHAs.

The discussion of each of these policy areas begins with a description of sections of QHWRA, the regulations, and the SEMAP performance indicators that are relevant to it. A summary of the reasons PHAs have given for the policy choices they made is then presented. These summaries, while not exhaustive, include the most frequently expressed reasons for making particular policy choices. Finally, for each policy area tables and analysis are provided that show the percentage of PHAs making particular policy choices. These tables are frequently arrayed by program size and, sometimes, by region.

## **Caveats**

The information on discretionary authority emanating from QHWRA should be interpreted as a baseline for those policies and practices that are being adopted as a result of the Act and the regulations that have been issued subsequent to it. No doubt, some of the policies and practices reported at the time of these discussions will change over time. While QHWRA was enacted in 1998 and some of the changes it established were effective immediately, others were not effective until October 1, 1999, or later. The discussions with PHAs all took place several months after the October 1<sup>st</sup> effective date and occurred over a six-month period, terminating in June 2000. However, it inevitably takes time for PHAs to change their practices, and all of these changes may not have occurred at the time of the conversations. Furthermore, since the conversations themselves took place over a six-month period, it is always possible that a particular PHA may have been contacted before policies were enacted that are now in effect. However, during the conversations every attempt was made to document policy changes that were anticipated though not yet implemented. In some cases, PHAs that have not yet implemented policies in certain areas plan to do so in the near future.

Because the informal discussions with local housing agencies were primarily intended to learn about policies that PHAs were actually implementing, no attempt was made to question PHA knowledge of, or interpretations of, the statute and rules, nor to evaluate the extent to which their chosen policies conform to, or were thought to conform to, HUD rules or to be sanctioned by waivers. For the most part, the policies being implemented by PHAs clearly fall within their discretionary authority; but in a few cases, they are not as clearly tied to a specific rule or waiver.

While the reported estimates of the kinds of policy decisions PHAs indicate they have made in the wake of QHWRA are based on a representative sample, the policy options PHAs indicate they have made have not been independently verified. When the PHA plans that document some discretionary policy choices become subject to electronic analysis, it will be possible to confirm what the PHAs reported. Furthermore, while the explanations given by PHAs for why they made particular policy choices have been reported, no independent attempt has been made to evaluate whether these explanations were based on objective analysis or to determine whether other interested groups, including tenant representatives, share these views.



## II. DISCRETIONARY AUTHORITY: TENANT SELECTION, OCCUPANCY, AND SCREENING

This section deals with how PHAs have implemented discretionary authority in the areas of tenant selection preferences, management of the waiting list, the screening of prospective participants, and occupancy standards.

### Tenant Selection Preferences

For a number of years, PHAs were required by law to give a priority for the use of 90 percent of their certificates and vouchers to households that were experiencing a variety of housing-related hardships. These Federal preferences targeted households paying more than 50 percent of family income for rent; those who had been involuntarily displaced; and those living in substandard housing, including the homeless and those living in a shelter for the homeless. Households experiencing such conditions include many that fall into the extremely low-income category (incomes below 30 percent of area median income).

As part of the 1996 Budget Continuing Resolution, Congress no longer imposed the old Federal preferences, and this change was continued through the annual appropriations process. PHAs became free to select tenants exclusively on the basis of local preferences.<sup>5</sup> The Quality Housing and Work Responsibility Act of 1998 (QHWRA) made permanent the ability of public housing agencies to select people on the basis of local preferences so long as these are consistent with the public housing agency plan that PHAs are required to submit. Section 514 of the 1998 Act, which specifically repeals Federal preferences, allows PHAs to establish a system of preferences based upon local housing needs and priorities, as determined by the public housing agency.<sup>6</sup> For example, in selecting people from the waiting list a PHA can choose people enrolled in training programs or those who are already working, although those PHAs that adopt a working family preference must give an equal preference to the elderly and to persons with disabilities. At the same time, not less than 75 percent of families who are initially provided tenant-based assistance must have adjusted incomes that do not exceed 30 percent of the area median income

*Tenant Selection Preferences – Issues Raised By PHAs.* Despite their freedom to choose local preferences, a number of PHAs have deliberately adopted a tenant selection procedure based only on the date and time of application. Many feel that it would be wrong and arbitrary to endorse one local preference category over another. One very large housing agency in the West, located in an area where there are people with many competing needs, including those suffering from AIDS, homeless families, and victims of domestic violence, simply sidestepped having to choose the most compelling among these needs by selecting

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<sup>5</sup> Although Federal Preferences have been repealed, some States have mandated local preferences. For example, in California a preference for veterans is mandated at the State level.

<sup>6</sup> Although PHAs can establish local preferences, they may only admit people who are eligible to the program. These include people who are income-eligible. These are low- or very-low income families. In addition, participants must be a citizen or a non-citizen with eligible immigration status.

families strictly on the basis of date and time of application, i.e., first come—first served. Agencies that use only date and time feel that it gives every income-eligible applicant an equal chance of moving up the waiting list instead of languishing for a long period as they are passed over by people in higher priority preference categories. For example, one small PHA in the Northwest dropped the Federal preferences it had been using in favor of “date and time,” in order to give its elderly applicants a chance to come to the top of the waiting list. This would have been difficult under the Federal preferences categories since the elderly were rarely displaced or living in substandard housing.

Some PHAs that have opted to choose applicants only on the basis of date and time of application want to discourage them from manipulating the selection process by masquerading under preferred tenant selection categories. Multiple examples were cited. One very large PHA in the Southwest described how, when it maintained Federal preferences, applicants would devise creative ways of moving from the bottom to the top of the waiting list. A number of PHAs have reported that some people would enter the shelter system if the PHA had a homeless preference. One small PHA in the Northwest reported that when it used Federal preferences, everybody reported paying 50 percent of their income for rent. Before it dropped Federal preferences in favor of date and time, one large authority in the Midwest related that when it had a working preference, applicants would work for a few months and then stop working as soon as they were housed.<sup>7</sup>

PHAs that have elected to adopt the old Federal preferences of high rent burden, substandard housing, and involuntary displacement as local preferences often view their mission as that of serving people in the greatest need and being the housing providers of last resort. In many cases, these PHAs are located in areas that have a large poverty population. Many of these agencies are particularly moved by a desire to stabilize families at the brink of even greater hardship. Thus, one medium-size PHA in the Northwest has always given a preference to displaced, low-income people in order to prevent them from becoming homeless. Some PHAs target vulnerable populations that are able to benefit from the provision of both housing and specialized services. Thus, one small PHA in the Northwest has decided to target persons with disabilities who are receiving mental health and other services from other agencies in the community. Another small PHA in the Northwest targets people with special needs who are receiving case management services because the housing they provide works in concert with these other services. The PHA’s view is that housing is an intrinsic part of therapeutic intervention.

Just as some PHAs believe that the program should be used in support of vulnerable populations, others think that the program should be used in support of upward mobility. One large PHA in the South, that gives a preference to working households, believes that vouchers should go to those households who are already on a path to self-sufficiency in order to maintain them on that path. In this view, housing is a base from which jobs and training can be accessed. The philosophy of one small PHA in the West is that preferences should be

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<sup>7</sup> We are unaware of any studies that have examined the extent to which families manipulate their circumstances to satisfy housing admissions preference categories. Thus, there is no definitive data on its prevalence.

designed to help people who help themselves, and it is for this reason that they maintain a preference for those who are working.

Many PHAs that favor a preference for working households are not happy with the new income targeting requirements because they feel that these discourage the working poor and even suggests to poor people that they should not work if they want to be eligible for Section 8. The feeling is that new income targeting rules only encourage people to work after they are already assisted, and work against people using their vouchers to find apartments near already existing jobs. In the view of one medium-sized PHA in the Northeast, a more rational system would encourage people to find employment before looking for housing. Some of these PHAs are concerned that they may have to drop their working preference because they believe it to be incompatible with the new income requirement,<sup>8</sup> and some have already done so. One medium-size PHA in the West notes that its working households have incomes that almost always exceed 30 percent of the area median income.

*Tenant Selection Preferences – What PHAs Are Doing.* Local preferences for people who are rent burdened, live in substandard housing, or are involuntarily displaced, including those who have become homeless as a consequence, are the old Federal preference categories. They are preferences that have to do with housing-related hardships. Only a small minority of PHAs, under 12 percent, now base their program preferences exclusively on the old Federal preferences. However, two-fifths of PHAs report that they are continuing to use the old Federal housing-related hardship preferences, either exclusively or with other preferences. While some PHAs elect to include the old Federal preferences among other preference categories, the majority of housing agencies are not using the old Federal preference categories at all (see Table II-1).

Medium-size agencies are most likely to use preferences that are based exclusively on

**Table II-1: PHA Use Of Tenant Selection Preferences, By Program Size**

PHA Size	Exclusively Hardship (Old Federal Preferences)		Hardship and Other Categorical Preferences*		Only Other Categorical Preferences		Just Date And Time Of Application**	
	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs
<b>Small</b>	141	10.1	408	29.2	404	29.0	442	31.7
<b>Medium</b>	50	25.4	57	28.9	58	30.5	32	16.2
<b>Large</b>	7	9.9	31	43.7	27	38.0	6	8.5
<b>Very Large</b>	2	9.5	7	33.3	5	23.8	7	33.3
<b>Totals</b>	200	11.7	503	30.0	494	29.5	487	28.9

\* "Other Categorical Preferences" are specific local preferences that do not include old Federal hardship preferences.  
 \*\* This category indicates the absence of any other local preference.

<sup>8</sup> The question of whether a working preference is compatible with the new income targeting requirement is a matter for empirical analysis at the PHA level, and is not addressed in this study.

the old Federal housing-related hardship categories; even so, just over one-quarter of them do so. Large agencies are most likely to base preferences on a mix of hardship and non-hardship preferences. About one-third of very large and small PHAs do not use specific preferences but base selection on the date and time of application (see Table II-1).

In the Northeast, the West, and the Northwest, the majority of PHAs use the old Federal housing-related hardship preferences, either exclusively or in conjunction with other preferences. However, in four regions, the Mid-Atlantic, the Mid-West, the South, and the Southwest, the majority of PHAs have stopped using the old Federal preferences (see Table II-2).

**Table II-2: PHA Use Of Tenant Selection Preferences, By Region**

Region	Exclusively Hardship (Old Federal Preferences)		Hardship and Other Preference Categories		Exclusively Other Preference Categories		Just Date And Time Of Application	
	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs
Northeast	46	13.6	149	44.2	97	28.8	45	13.4
Mid-Atlantic	3	2.6	42	36.8	34	29.8	35	30.7
Midwest	51	12.0	154	36.2	121	28.5	99	23.3
South	92	21.2	12	2.8	159	36.6	171	39.4
Southwest	3	1.8	24	14.2	31	18.3	111	65.7
West	1	0.7	86	61.9	51	36.7	1	0.7
Northwest	5	7.1	37	52.9	3	4.3	25	35.7

Though PHAs may not be using the old Federal hardship preferences, this does not mean that some of their other preference categories are not reserved for people who have characteristics that make them more vulnerable. These include old age, disability, and domestic violence. Even though they do not use the old Federal hardship preferences, over 20 percent of PHAs report giving a preference to people with such characteristics, either exclusively or in combination with other preference categories. When PHA preferences based on housing-related hardships are added to PHA preferences for families that have characteristics or situations that make them more vulnerable, such as old age or disability, then a majority of PHAs are using such need-based preferences (see Table II-3). Medium and large PHAs are most likely to use need-based preferences.

**Use Of Old Federal Preferences, By Units**

Although PHAs are the main focus of this report because discretionary authority is vested in them, it is helpful to know how many units are found in PHAs that use the old Federal hardship as opposed to other tenant selection preferences. A little under one-half of vouchers are allocated to PHAs that use the old Federal preferences, either exclusively or in conjunction with other preferences.

**Table II-3: PHA Use Of Need-Based Preferences, By PHA Size**

Program Size	Use Of Old Federal Preferences		Use Of Other Need-Based Preferences		No Use Of Need-Based Preferences	
	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs
<b>Small</b>	534	37.8	300	21.3	577	40.9
<b>Medium</b>	101	50.5	39	19.5	60	30.0
<b>Large</b>	34	49.3	16	23.2	19	27.5
<b>Very Large</b>	9	42.9	2	9.5	10	47.6
<b>Totals</b>	678	39.9	357	21.0	666	39.2

On the other hand, preferences for people enrolled in education or training programs, or people who are actually employed, are preferences that favor those on the path to self-sufficiency, and these preferences are consonant with the major welfare reforms that have taken place in recent years.<sup>9</sup> A little more than one-quarter of PHAs (27.3% of PHAs) give a preference, either exclusively or in conjunction with other preferences, to people who are going to school or are in a training program, or to people who are working, or to people doing both.<sup>10</sup> Large PHAs are those most likely to have such preferences (52.8% of large PHAs). As far as region is concerned, PHAs in the West are those most likely to give a preference to upwardly mobile applicants (40.3% of PHAs in the West).

Because both the public housing and the tenant-based Section 8 programs have identical authority to select 100 percent of new participants solely on the basis of local preferences, tenant selection policies in the two programs make an interesting point of comparison. Many agencies operate both programs, and QHWRA specifically allows some fungibility in the area of income eligibility. That is, a PHA that exceeded the 75 percent admissions mark for extremely low-income families into its tenant-based program could apply the excess to reduce the admissions mark for extremely low-income families into its public housing program.

In the Study of the Uses of Discretionary Authority in the Public Housing program, about 15 percent of PHAs were using date and time as their exclusive preference (see Table II-4). Just under 30 percent of PHAs operating tenant-based Section 8 programs base selection entirely on date and time rather than using any categorical preference. Thus, date and time of application is being used almost twice as often as the basis for selecting participants in the tenant-based Section 8 program than in the public housing program. On the other hand, a larger proportion of PHAs administering the public housing program than of

<sup>9</sup> As defined by HUD, economic self-sufficiency programs include those that encourage, assist, train, or facilitate the economic independence of assisted families or to provide work to such families. These programs include job training, employment counseling, work placement, basic skills training, education, English proficiency, financial or household management, apprenticeship, and any other program necessary to ready a participant to work.

<sup>10</sup> Five percent of PHAs use only a residency preference in the Section 8 Program to select people from their waiting list. Although residency requirements are prohibited, PHAs are not prohibited from adopting a residency preferences so long as they do not violate fair housing requirements.

those administering the tenant-based assistance were using neither date and time exclusively nor the old Federal hardship preferences, but instead were selecting other preferences entirely<sup>11</sup>. Since many PHAs operate both Section 8 and public housing programs, there may be no net change, post-QHWRA, in PHA level of assistance to particular kinds of households.

**Table II-4: Comparison of Section 8 and Public Housing With Respect To The Choice of Tenant Selection Preferences**

Category	Section 8	Public Housing
<b>Exclusively Hardship (Old Federal)</b>	11.7	9.2
<b>Hardship and Other Preferences</b>	30.0	31.0
<b>Only Other Categorical Preferences</b>	29.5	44.8
<b>Just Date and Time</b>	28.9	15.0

In describing the preferences that PHAs are utilizing to award vouchers, it is not enough to know about the vouchers they distributed on the basis of local tenant selection preferences, because PHAs have also been providing special purpose vouchers in conjunction with the Mainstream, Designated Housing, Family Reunification, Welfare To Work, and other programs. These vouchers are earmarked for particular populations including: public housing tenants displaced because of public housing demolition, to provide them with the means of finding another unit; or very low-income families receiving welfare assistance or recently off welfare assistance to enable them to rent apartments near available jobs, transportation, and child care; or families separated or in danger of separation because of lack of adequate housing to provide housing assistance that would keep the family group together. In characterizing a housing agency's tenant selection process, it is not enough to speak about the vouchers distributed on the basis of local preferences. For example, an agency may not maintain a local preference for the homeless, but may have received a special allocation that is used for the homeless.

In 1999, 39,358 special purpose vouchers were distributed to the 167 PHAs included in the sample (see Table II-5.)<sup>12</sup> These included vouchers for the Designated Housing/Mainstream programs, Family Unification, Housing Conversion, Preservation, Public Housing Relocation Replacement, and Welfare To Work.<sup>13</sup> The greatest proportion, one-quarter, were distributed in conjunction with the public housing relocation replacement program for public housing

**Table II-5: PHA Use Of Special Allocation Vouchers In 1999 \***

Special Allocation	Number Of Units	Percent Of Units
<b>Public Housing Relocation Replacement</b>	10,090	27.7
<b>Designated Housing/Mainstream</b>	9,055	24.7
<b>Conversion</b>	7,298	19.8
<b>Family Unification</b>	5,481	14.8
<b>Preservation</b>	3,110	8.5
<b>Welfare To Work</b>	4,324	4.5

\* These percentages apply only to the sampled PHAs.

<sup>11</sup> The information on Public Housing preferences was gathered a year earlier than the information on Section 8 preferences. Because of this time lapse, public housing preferences may have changed.

<sup>12</sup> Data covering special purpose vouchers were provided by HUD's Office of Public and Indian Housing. These vouchers are excluded from the analysis of vouchers distributed on the basis of local tenant selection preferences.

<sup>13</sup> By allowing PHAs to ignore many features of the 1937 Housing Act, the Welfare To Work demonstration gives PHAs the freedom to operate Section 8 programs that are not bound by many of the constraints of QHWRA.

tenants living in units to be demolished. In 1999, the sampled PHAs started with 723,158 contracted units, not counting the 1999 special allocation vouchers.<sup>14</sup> Because of the turnover of some proportion of the contracted units, they accounted for more of the vouchers in circulation than the special allocation vouchers.<sup>15</sup>

In cases where vouchers are earmarked for particular populations, only those who meet special criteria are eligible to receive such vouchers. Sometimes, such families were already on housing agencies waiting lists, but, in other cases, they are recruited from the client base of other community agencies. And such households, whether originally on the waiting list or recruited for it, are sometimes given vouchers ahead of households who were on the waiting list before them but who do not fit the special targeting criteria.

## **Criminal Background Checks**

Although the screening and final selection of tenants is up to the landlord, QHWRA allowed PHAs to conduct criminal background checks on applicants even though the final rule has not been issued yet.<sup>16</sup> PHAs have the discretion to deny admission to a household if any of its members has engaged in any drug-related or violent criminal activity that would adversely affect the health, safety, or right to peaceful enjoyment of other residents and that took place after a time deemed to be a reasonable cut-off preceding the date when the household would otherwise be selected for admission. PHAs may also bar admission to households with members who are currently using illegal, controlled substances or whose use of controlled substances or alcohol may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.<sup>17</sup>

PHAs may use their discretion in deciding whether an applicant's record is sufficiently recent or serious to bar the family from participating in the program. They can consider mitigating factors when deciding whether to disqualify an applicant for assistance or to terminate a tenancy. For example, they can take into consideration the fact that a household member participates in, or has successfully completed, a supervised drug or alcohol rehabilitation program.<sup>18</sup>

In deciding whether to deny or terminate assistance based on drug-related criminal activity or violent criminal activity, the PHA has the discretion to deny or terminate assistance if it judges that the preponderance of evidence indicates that a family member has engaged in such activity, regardless of whether the family member has been arrested or convicted, and this discretionary authority predates QHWRA. However, the PHA must give an applicant an

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<sup>14</sup> Some of the contracted units came from special allocation vouchers made available in previous years.

<sup>15</sup> It is estimated that the average turn-over rate is about 11 percent, based on a study conducted by the Office of Policy Development and Research using data on new admissions and the end of participation from the Multifamily Tenant Characteristics System (MTCS). Applying this estimate to the PHAs in this sample, about one third of the vouchers in circulation in 1999 would have come from special allocations.

<sup>16</sup> Besides doing criminal background checks, PHAs are now able to screen for tenant suitability, but the focus of the discussion with PHAs on background checks was on criminal background.

<sup>17</sup> Section 576.

<sup>18</sup> Section 576

opportunity for an informal review if the PHA decides to deny assistance to the applicant. Almost all PHAs have administrative “due process” procedures in place.

Housing agencies also have choices about the information sources they tap to uncover drug-related and other criminal behavior. They can obtain such information from local, State or Federal agencies, or from all of these. They may also use informal sources, such as newspaper stories or complaints from community residents. The exception is information on sex offenders, which must come from State and local registries. Costs associated with obtaining information on criminal background come out of the administrative fee that the PHA receives.

*Criminal Background Checks – Issues and Approaches:* One factor that influences some PHAs to adopt stringent standards for exclusion based on information gathered from criminal background checks is a desire to promote community acceptance of the program and to increase owner participation. In some communities, the program has achieved a bad reputation because its participants are viewed as prone to criminal behavior. PHAs intent on dispelling such views seek to weed out people who might be treated more leniently in some other agencies. One way of doing this is to go back further in time when checking on criminal background. Thus, one large Mid-Atlantic PHA goes back seven years in its criminal background checks because it feels it must work hard to overcome a tendency within the community to associate criminality and the receipt of housing subsidies.

Resource considerations are often reported to influence the breadth of a PHA’s criminal background checks. One small agency in the South has to rely on self-identification of criminal background by applicants because it has no funds to obtain information from law enforcement agencies. The common charge in its area is \$15 per case for criminal background checks, and the PHA can’t afford that amount. A medium-size PHA in the South confines itself to local police information because obtaining State-level records would cost \$13 a case. This agency is concerned that the local sheriff may even begin to charge them for information. Another small Mid-Atlantic PHA decided that obtaining FBI records was too costly, \$15 to \$25 per record. Even local police agencies are sometimes charged for State records.

But some agencies calculate that the up-front costs of more rigorous criminal background checks are cost-effective in the long run because of the administrative and financial burden involved in having to terminate the assistance of families who continue to engage in criminal behavior that was not detected during the initial screening. Some agencies that rely on local police information feel that it is sufficient because most of their applicants come from the immediate area.

Even PHAs that cast a wide net during the initial background checks are often dependent on second-hand reports to initiate termination. A few receive automatic feedback on households who match the social security numbers of program participants and have ended up on the police roster, but these arrangements are unusual. For the kind of information that could lead to termination, most PHAs depend on outside informants like friends, family members, neighbors, and newspapers. Furthermore, when landlords alert the PHAs about evicting tenants, many PHAs will also move to terminate assistance; getting evicted is regarded as a breach of family obligations.<sup>19</sup>

*Criminal Background Checks: What PHAs are Doing:* Some agencies have been conducting criminal background checks for a long time, while others have only begun to do so recently or are still in the process of setting up procedures for doing so because of the new QHwRA requirements. Four-fifths of housing agencies report that they have or were about to adopt a process for disqualifying applicants based on criminal background and violent criminal behavior. The remainder do not conduct background checks (see Table II-6). Some PHAs that are not currently conducting criminal background checks reported that they will be doing so in the near future. Almost all PHAs have a process for terminating the assistance of voucher holders who are involved in criminal activity, including drug related criminal activity. Many PHAs also terminate assistance to families that violate their family obligations.

**Table II-6: The Sources Of Information For Criminal Background Checks, By Program Size**

PHA Size	No Background Checks		Informal Check/ Self Trigger		Local Sources		State Sources		Federal Sources	
	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs
<b>Small</b>	262	19.2	490	35.9	410	30.1	139	10.2	63	4.6
<b>Medium</b>	42	23.9	15	8.5	58	33.0	39	22.2	22	12.5
<b>Large</b>	14	20.6	5	7.4	24	35.3	22	32.4	3	4.4
<b>Very Large</b>	4	26.7	2	13.3	3	20.0	4	26.7	2	13.3
<b>Totals</b>	322	19.8	512	31.5	495	30.5	204	12.6	90	5.5

Some PHAs have more stringent policies when it comes to barring admission to the program. Some consider only actual convictions whereas others look at both arrests and convictions. Some look at the preponderance of evidence. Some PHAs evaluate the pattern of criminal behavior, including whether the applicant was involved in repeat offenses. For some, only crimes committed within the past year raise a red flag, while most go back at least three years for evidence of earlier criminal activity. Many PHAs have no “statute of limitations” for certain kinds of crime, like murder. Because of these policy differences, some PHAs will bar applicants who would be admitted by others.

<sup>19</sup> Compliance with the lease, including paying for utilities, maintaining appliances, and preventing any member of the household or guest from damaging the dwelling unit or premises, is a family obligation.

Some PHAs cast a wider net than others when it comes to the kind of information used for checking for criminal background. While some rely on self-identification and on informal sources like word of mouth, others consult local police record systems and, in addition, some seek out State-level information. A few even access national databases, including National Crime Information Center (NCIC) and FBI records.<sup>20</sup> Someone convicted of an offense in another State might not be disqualified in an authority that relies only on local information sources for its screening. Almost one-half of PHAs report accessing criminal record systems, including local, State or Federal criminal data bases and/or police department records systems (48.6% of PHAs) (see Table II-6). Ordinarily, they use such sources to screen all applicants. PHAs that use police and other criminal record systems most often use local systems and least frequently use Federal or other national data systems. Some PHAs use more than one source. The differences in usage rate may reflect differences in the cost and ease of accessing different criminal databases.<sup>21</sup> PHAs that screen but do not use criminal record systems depend upon less formal sources of information, including self-reports, newspapers, or word of mouth. PHAs that depend on self-reports may fail to identify applicants with criminal backgrounds who do not choose to report previous criminal activity.

Size is a factor in determining the extent to which PHAs rely exclusively on informal or opportunity-based information sources like self-reports, word of mouth, or newspaper accounts. Over one-third of small agencies rely on such sources, whereas a much smaller proportion of larger PHAs use such sources. (see Table II-6).

## **Managing The Waiting List**

Waiting lists are the funnel through which applicants must pass in order to be selected as program participants. While PHAs have a lot of discretion about how they manage their waiting lists, their policies must be documented in their PHA plan, including their criteria for which families may apply for assistance and for removing applicant names from the waiting list, as long as these policies are stated in a public notice. They must also give public notice when they open their waiting lists, even though PHAs can determine for themselves when their existing waiting list contains an adequate pool relative to available program funding and, therefore, when they may stop accepting new applications.

*Management of the Waiting List – Issues and Approaches:* The number of persons on the program waiting list may reflect the greater part or only a small fraction of the need for housing assistance in a community, and a position on the waiting list may carry a high or a low probability of actually receiving a voucher within a reasonable period of time. Both internal and external factors are reported to account for these variations.

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<sup>20</sup> PHAs access to adult criminal conviction records of the National Crime Information Center and other law enforcement agencies has been extended to Section 8 applicants and tenants.

<sup>21</sup> Theoretically, crime data is comprehensive at whatever level it is gathered. Thus, national crime records, such as those kept by NCIC, should include criminal background information at the State and local level. And, State level information should include local information.

Some of the fluctuation in the size of PHA waiting lists for vouchers is attributed to housing market fluctuations. One very large Middle-Atlantic PHA, whose waiting list is larger than it was a year ago, noted that it is in a housing market where there have been many opt-outs and prepayments under project-based Section 8 contracts, resulting in the loss of available units. These, and public housing demolition, reduced the availability of affordable units. Sometimes, supply is a function of the price structure from within the rental housing market. In one very large Western PHA, a sharp upward spiral in the cost of housing in the community is blamed for the increase in the waiting list, because those who finally succeed in being served tend to remain in the program longer. The result is that there are fewer turnover vouchers available for those who newly apply.

But the economy, and the housing market component, are not the only reason for fluctuations in the size of the waiting lists. These are also affected by how housing agencies manage their waiting lists.<sup>22</sup> PHAs can decide whether, how often, for how long, and in what manner to close their waiting lists, and in what manner to draw from them. The waiting list of one medium-size Mid-Western PHA is no larger than it was a year ago, simply because it has been closed since 1997 and not because of any loosening in the local housing market. The housing market in this PHA's jurisdiction is tight, with many landlords turning rental units into condominiums and upward cost pressure on the remaining rental stock.

Many PHAs report that they try to manage their waiting list in a way that keeps its size in balance with the vouchers expected to be in circulation on an annual basis. One common technique is to keep waiting lists open only long enough to receive the number of households that can be served within a reasonable period. Thus, one small PHA in the Northwest chose to close its waiting list because applicants were waiting for up to two years. The PHA felt that applicants would be given false hope of being served in a reasonable time if the waiting list had been kept open. Likewise, one medium-size Mid-Atlantic PHA opened its waiting lists for just two weeks to take in just enough people so that those at the bottom of the list could have a reasonable chance of being served within one year. One small PHA in the Northwest now closes its list after five days because it does not want new applicants to "get lost" in the system, languishing on the waiting list for a long time without being served.

One additional reason why some PHAs try to keep their lists in balance with the number of vouchers they expect to be able to issue within a reasonable time frame is because the longer people are on the waiting list, the less likely they will still be available and eligible when they come to the top. One large PHA in the Northeast found that after a time lapse of two years many of the people who originally signed up were either no longer eligible, not reachable at their given address, or no longer in the jurisdiction.

Some PHAs report that they open their waiting lists on a selective basis. These include PHAs that have received a special allocation but do not have sufficient households on their current list who qualify under the special allocation targeting criteria. One medium-size PHA in the West opened its waiting list for one month in order to attract applicants who would qualify for the more than 600 vouchers it received for the Welfare to Work program.

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<sup>22</sup> There was no way of determining how much of an impact PHA management practices have on the size of the waiting list vs. such factors as the local economy or housing market. An evaluation now underway within HUD will be able to provide some answers to this question.

The QHWRA income targeting requirement also impels some PHAs to reopen their waiting lists. One small PHA in the Northwest, whose waiting list had been closed for over three years, will soon reopen it because of the income targeting requirement, and another medium-size PHA in the West will open only for people at or below 30 percent of median income because there are too few of them on the current list.

**Table II-8: PHA Policy On Updating Waiting Lists**

Waiting List Is:	Number Of PHAs	Percent Of PHAs
Not Updated	260	17.1
Partially Updated	9	0.5
Completely Updated	1,253	82.3

Because many families can no longer be contacted when their names finally get to the top of a long waiting list, many housing agencies have to periodically purge their lists. People who cannot be contacted are dropped from the list. As an alternative to purging, some agencies choose the option of taking in a large number of applicants but then reducing the size of their waiting list by means of a lottery. One very large PHA in the West has received 150,000 applications in the period since its waiting list has been open. To be able to respond to these applications on a “priority basis,” the PHA has, by lottery, winnowed down the originally very large pool of 150,000 applicants to just 10,000.

*Management of the Waiting List – What PHAs Are Doing:* More than one-half of PHAs indicate that they close their waiting lists for at least part of the year in order to keep supply and demand in balance (see Table II-7).

Medium-size PHAs are the ones most likely to close their lists and small ones the least likely. About two-thirds of large and very large PHAs close their waiting lists for part or all of the year. Medium and larger PHAs are more likely to be located in communities with larger poverty concentrations and more demand on limited program resources (see Table II-7).

**Table II-7: PHA Policy Regarding Closing Waiting List For All Or Part Of The Previous Twelve Months, By PHA Size**

Program Size	Closed Part/ Or Whole Year		Open Whole Year	
	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs
Small	692	49.0	719	51.0
Medium	148	76.3	46	23.7
Large	46	66.7	23	33.3
Very Large	14	66.7	7	33.3
<b>Totals</b>	900	53.1	795	46.9

PHAs are free to remove names of applicants from the waiting list who do not respond to PHA requests for information or updates. About four-fifths of PHAs have purged or otherwise updated their lists within the last year, although only about one-half of very large PHAs do so (see Table II-8). Some PHAs that do not purge their lists are able to keep them current because the number of vouchers that circulate is approximately equal to the number on the list.

## Occupancy Standards

Occupancy standards are one basis for determining the value of the voucher that families receive. These standards provide a basis for calculating the number of bedrooms to be allocated to families of different sizes and gender, age, and generational compositions. However, it is ultimately left up to families to decide on the actual use of space in their units, including the sleeping arrangements. Regardless of the subsidy standard, families can lease larger or smaller units if these meet housing quality standards.

Whereas the program's waiting list used to be organized on the basis of the number of bedrooms needed and earlier Handbooks specified the appropriate bedroom allocations for families of different sizes and compositions, these policies were replaced by a conforming rule change that provided for an occupancy level of two persons to a sleeping space.<sup>23</sup> Families who decide to lease a unit that exceeds the PHA's occupancy standard for their family size and composition can always pay for the additional rental cost as long as they stay within the rent burden limits.

All else equal, the greater the number of bedrooms per voucher, the greater the subsidy value per voucher. But this usually does not limit the number of voucher a PHA can issue because the Section 8 program is funded in part on actual prior-year PHA outlays. These means that any vouchers approved in one year are covered in the next.

*Occupancy Standards – Issues and Approaches:* Some PHAs believe as a matter of principle and of law that they should not intrude upon or dictate a family's living and sleeping arrangements. Therefore, while they use the basic guidelines of two persons per sleeping space for funding purposes, they do not issue additional recommendations to families of different sizes and age and gender compositions concerning the number of people who actually sleep in each bedroom or other sleeping space. One medium-size Midwestern PHA decided to throw out its occupancy requirements because it came to believe they violated fair housing rules. Such PHAs feel they should not interfere with what families think are the best arrangements for themselves. Another large Midwestern PHA reported that it dropped inter-generational occupancy standards rules when it experienced a large influx of refugees whose family members kept joining them. If the PHA had dissuaded these families from sharing bedrooms, the families would have found it difficult to find larger units that they could afford.

Some PHAs that use a "two persons per bedroom" standard but do not have additional guidelines for different generations or for children of the opposite sex are also influenced by housing stock limitations as well as limits on people's ability to pay higher rents for larger units. They report the pressure to be especially greater in tight and expensive housing markets. Thus, one large PHA in the West used to recommend separate bedrooms, from birth, for children of the opposite sex and for children of the same sex who were 6 years of age or older. But it has abolished the policy because there are too few affordable units to meet such stringent bedroom recommendations. Another very large PHA in the West now bases the subsidy level on the assumption that children of the same sex will share bedrooms, regardless of age, because the housing market is very tight and rents are very high. By

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<sup>23</sup> This occupancy level was believed to conform with the Fair Housing Act, according to a 1991 memo from the HUD General Counsel.

assuming children will double up, the PHA believes it is able to spread its resources to more families than otherwise possible.

PHAs that subsidize families in larger units than required by the two-person per bedroom standard may be serving fewer families, but they believe they are meeting the psychological and physical needs of the family members they do serve. Some PHAs have been influenced by psychologists who feel that for psychosocial reasons, children of the opposite sex should have separate bedrooms, certainly by the time they are of school age.

*Occupancy Standards – What PHAs Are Doing:* In addition to applying the two persons per bedroom standard, the great majority (86.6%) of PHAs maintain additional guidelines as a basis for issuing larger vouchers to families, based on the age and gender of the children, generational differences, etc.<sup>24</sup> While most PHAs will issue larger vouchers to provide children of the opposite sex with separate bedrooms when they reach a certain age, less than 16 percent have guidelines which provide for separate bedrooms, from birth, for children of the opposite sex. (see Table II-9).

<u>Guideline</u>	<u>Number Of PHAs</u>	<u>Percent Of PHAs</u>
<b>Separate Bedroom for Each Child from Birth</b>	262	15.9
<b>Separate Bedroom for Each Child After the First Year</b>	505	30.6
<b>Separate Bedroom for Children Over Six Years of Age</b>	486	29.5
<b>No Separate Bedrooms Regardless of Age</b>	174	10.6
<b>No Standards on Separate Bedrooms</b>	221	13.4

<sup>24</sup> Families are free to fall back upon the two-person per bedroom rule, and even to accept a smaller voucher if a particular situation warrants.

### III. DISCRETIONARY AUTHORITY – EXTENDING HOUSING OPPORTUNITIES

This section deals with PHA use of discretionary authority in areas that affect the housing opportunities available to voucher holders. The discussion covers PHA policies related to the housing search process; how they handle portability; the ways in which they encourage landlords outside of concentrated areas to participate in the program and, likewise, the ways in which they encourage voucher holders to search outside of concentrated areas; whether they offer a homeownership option; whether they allow the use of vouchers in special housing types; and the way in which they assist hard to serve households.

#### Search Time

Prior to the new rule, PHAs had to receive a waiver to extend the search period beyond 120 days. As a result of a new rule on the term of the voucher, PHAs are no longer required to limit voucher holders to a 120-day search period.<sup>25</sup> But PHAs do have the discretion to set the term of the search for a specific period. However, the initial term of the voucher must be at least 60 days. PHAs have the discretion to grant one or more extensions of the initial voucher term. During the initial or any extended term of a voucher, the PHA may require the family to report progress in leasing a unit.

*Housing Opportunities: Search Time – Issues and Approaches:* PHAs that are liberal about extending the search period to 120 days, either by offering this amount of time outright or by offering automatic extensions, often tie their policy to the fact that they are located in markets where participants have had a more difficult time finding units. For this reason, one large Mid-Atlantic PHA allows people to search for up to 150 days because finding a unit in the local housing market, especially a three-bedroom unit, is very difficult. One medium-size Midwestern PHA gives people who are searching for a one- or two-bedroom apartment an automatic 30-day extension and people who are searching for a three-bedroom or larger unit an automatic 60-day extension, reflecting the difference in the difficulty of finding units in these bedroom sizes. One very large Western PHA, where FMRs are thought to be low and where the vacancy rate is less than one percent, allows extensions beyond the usual 120-day limit.

Some PHAs also grant longer search periods to people with special needs. Often these agencies allow disabled households to search for more than 120 days because the PHAs report that it is more difficult for them to conduct a search and a smaller pool of available units exists to meet their special needs. People who have received special allocations through the Mainstream and Designated programs are often allowed to search for the full 120 days without any restrictions.

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<sup>25</sup> 24 CFR Section 982.303 issued on October 21, 1999.

Some housing agencies that actively encourage families to search in non-traditional areas also allow a longer search period. They find that it often takes longer for people to locate an appropriate unit in areas where the rent structure may be higher and where landlords are less familiar with the program. Housing agencies that participate in the Regional Opportunity Counseling program (ROC) and other mobility programs are particularly likely to be liberal about giving participants enough time to find units in areas that are not concentrated. One large PHA in the Northeast gives people assisted in their special mobility program up to six months to find a unit in a non-impacted area.

PHAs that place tighter controls on the search period often also report that they are reacting to local market conditions, especially softer rental markets, where it should take no longer than 60 days to find a suitable unit. Because of this, one large Midwestern PHA gives only one 30-day extension to people who do not have an extenuating reason, such as a medical condition, for not locating a unit. Some PHAs that do not give automatic extensions also believe it is easier for voucher holders to find suitable units now that the payment standard is higher. One medium-size PHA in the Midwest has reduced the search period since it adopted a payment standard of 110 percent of the FMR.

Some PHAs try to maintain a shorter search period so that scarce resources do not lie fallow. One medium-size Midwestern PHA decided to offer the initial voucher for 60 instead of 120 days because it found that people procrastinated when they knew they had four months and, as a result, vouchers went unused for a longer period.

*Search Time - What PHAs are Doing:* Over ninety percent of PHAs indicate that they allow participants as much as 120 days to search for a unit. After the initial 60-day search period has elapsed without finding a unit, some PHAs mete out extensions in 30-day increments, others in 60-day increments, while a very small proportion allow one flat 120-day search period to begin with.

Small PHAs are most likely to mete out extensions in 30-day increments. However, the great majority of them grant two 30-day extensions (80.9% of small PHAs) (see Table III-1). Medium-size PHAs are most likely to provide a 60-day extension after an initial, unsuccessful 60-day search period.

Some PHAs allow automatic extensions after an initial, unsuccessful search, but most require proof that the search, though unsuccessful, was in earnest. Among PHAs granting extensions, over three-quarters require proof of an earnest effort, while the remainder grant them automatically (see Table III-2). In terms of size, smaller PHAs are most likely to require proof. About three-quarters of small and medium PHAs require proof, whereas about two-thirds of large and very large PHAs require proof before granting extensions.

**Table III-1: PHA Policy On Extensions Beyond Initial 60-Day Search Period, By Program Size**

PHA Size	No Extensions		One 30-Day Extension		Up To Two 30-Day Extensions		60-Day Extension		120 Days From Start Of Search	
	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs
Small	20	1.6	81	6.4	1,023	80.9	129	10.2	11	0.8
Medium	0	0.0	10	6.0	80	48.4	75	45.4	0	0.0
Large	0	0.0	1	1.7	37	62.7	15	25.4	6	10.1
Very Large	1	9.0	0	0.0	6	54.5	3	27.2	1	9.0
<b>Totals</b>	21	1.4	92	6.1	1,146	76.5	222	14.8	18	1.2

The practice most often chosen by PHAs is to allow up to two 30-day search periods after the initial 60-day search period has ended without success, with the voucher holder providing proof of a legitimate effort before each extension.

**Portability**

According to QHWRA, any family receiving tenant-based assistance may use it to rent an eligible unit in another area as long as the dwelling to which the family moves is within an area in which a voucher program operates.<sup>26</sup> Thus, the portability provision provides program participants with the ability to move not only from one neighborhood to another but from one jurisdiction to another, regardless of whether the jurisdictions abut or are at opposite ends of the country. When a family moves to an area outside the initial PHA jurisdiction, the receiving PHA has the choice either of absorbing the family by serving them out of its own allocation or of billing the originating PHA. A family that is absorbed is assisted with funds available under the Annual Contributions Contract (ACC) of the receiving PHA’s tenant-based program.<sup>27</sup> Or the receiving PHA may bill the initial PHA for housing assistance payments and administrative fees. The initial PHA must then reimburse the receiving PHA for 80 percent of the initial PHA’s on-going administrative fee for each unit month that the family

**Table III-2: PHA Policy On Extensions Beyond Initial 60-Day Search Period, By Required Effort And Program Size \***

PHA Size	Extension Policy			
	No Proof Required		Proof Required	
	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs
Small	283	22.4	980	77.6
Medium	42	25.4	123	74.6
Large	19	35.8	34	64.2
Very Large	3	33.3	6	66.6
<b>Totals</b>	347	23.3	1,143	76.7

\* The PHAs included in this table are restricted to those that grant extensions.

<sup>26</sup> Section 555.

<sup>27</sup> The Annual Contributions Contract is a contract that HUD executes with the PHA obligating HUD to provide the PHA with funds for the Housing Assistance Payments, plus a set proportion for administrative fees. The contract is for a specific funding amount and for a specific period of time.

receives assistance under the program from the receiving PHA. Housing agencies can also enter into cooperative agreements with other PHAs to coordinate their portability policies.

*Portability – Issues and Approaches:* One reason some PHAs give for absorbing rather than billing is that they are rated under SEMAP on their lease-up rates. To earn the maximum number of points, i.e., a higher rating, PHAs must be leased up at a 98 percent rate or greater. Thus, PHAs that are not at full occupancy are inclined to absorb. But some PHAs have cooperative agreements to bill and not to absorb each other's participants because of the adverse affects that wholesale absorbing could have on the lease-up rate of the agency from which more people are porting out than porting in. Two Mid-Atlantic PHAs that are located just a few blocks apart have such an agreement because both recognize that if one of them absorbed the voucher holders porting out of the other, the latter's lease-up rate would be adversely affected. Beyond their SEMAP rating, some PHAs are also concerned about having their future allocations reduced when large numbers of their voucher holders are absorbed by other PHAs and they do not achieve the required lease-up rate. One large PHA in the Northwest reported this concern when the PHA in a neighboring county absorbed a large number of its voucher holders.

Many PHAs express another dilemma associated with absorbing voucher holders who "port in" instead of billing the PHAs from which they come. Voucher holders who are absorbed are served out of the annual allocation of the PHA to which they have ported in, and thus fewer people who were already on the receiving PHA's waiting list can be served. The choice to absorb rather than to bill becomes critical when large numbers of people port in. This was the reason why one large Middle Atlantic PHA decided to bill. While it was still absorbing, over 900 people ported in to the PHA in one year, a number that exceeded the combined number of households who ported into all of the other PHAs in the metropolitan area. Most of these families were porting in from the central city of the MSA where many affordable rental properties had been torn down. Like other PHAs offering affordable housing in otherwise tight markets, the PHA to which so many households ported in had become a magnet for its entire metropolitan area. The PHA's absorption policy became a political issue because local applicants would have faced an indefinite wait if the policy had continued.

For other PHAs, absorption does not pose such stark choices, because the flow of migrants is not so great or not so unidirectional. One large Mid-Atlantic PHA absorbs people who port in because so many of its clients are porting out. Some PHAs that bill neighboring PHAs when their voucher holders port in will absorb voucher holders who port in from PHAs that are outside of the region because these are isolated cases and separate billing would be inefficient. Some PHAs go back and forth between absorbing and billing, depending on which policy makes more sense at a particular time.

Some PHAs, that participate in programs like Regional Opportunity Counseling (ROC) and Welfare To Work that emphasize deconcentration and upward mobility for program participants, choose to absorb households rather than bill the PHA from which they port out. Thus, one very large PHA in the South that participates in ROC maintains cooperative agreements with three other PHAs that absorb families seeking to move to non-

impacted areas. Likewise, one large PHA in the Northwest that has received vouchers under the Welfare To Work program has a cooperative agreement with another HA to mutually absorb voucher holders who are seeking to move closer to available jobs.

Some PHAs who favor absorbing give administrative efficiency as their reason. Thus, one very large PHA in the West absorbs all households who port in because their numbers are so great that billing would be an administrative burden. Part of the problem is said to be that the accounting systems of many PHAs are not set up to record the multiple transactions that billing requires and the accounting procedures of different PHAs are also not mutually compatible. The accounting software at one PHA often does not handle the billing procedures of another. In addition, PHAs have different billing cycles, and, according to some PHAs that bill, not all PHAs keep careful records or pay their bills on time.

On the other hand, some PHAs look upon billing as an opportunity to collect additional administrative fees, especially when the administrative fees are higher at agencies that would be billed. PHAs that bill collect 80 percent of the fees that would otherwise go to the originating PHA. While the fee schedule is no longer linked to the FMR level, PHAs in areas with lower FMRs tend to have lower fees and are inclined to bill PHAs in areas with higher fees. These PHAs can often receive higher fees for households who port in than for their own households.

*Porting – What PHAs Are Doing:* Over 60 percent of PHAs report that they have opted to absorb people who port in from other housing agencies instead of billing the originating PHA (see Table III-3).

Very large agencies are most likely to absorb (75.0% of very large PHAs), and small and large PHAs are most likely to both bill and absorb (see Table III-3). Contrary to what might be supposed, changes in waiting list size, either up or down, seem to have only a modest bearing on the decision to bill or to absorb. Likewise, the ratio of waiting list size to the total program size has no relationship to the decision to absorb. PHAs where the ratio is high are as likely to absorb as PHAs where the ratio is lower.

**Table III-3: PHA Policy On Absorbing And Billing, By Program Size \***

PHA Size	Always Absorb Those Porting In		Sometimes Bill/ Sometimes Absorb		Always Bill For Those Porting In	
	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs
<b>Small</b>	802	63.6	255	20.2	204	16.2
<b>Medium</b>	113	60.8	32	17.2	41	22.0
<b>Large</b>	44	63.8	19	27.5	6	8.7
<b>Very Large</b>	15	75.0	0	0.0	5	25.0
<b>Totals</b>	974	63.4	306	19.9	256	16.7

\* Data reported here reflect PHA policy *vis-a-vis* Section 8 assistance ported in.

## Encouraging Participants To Rent Outside Areas Of Concentration

PHAs must demonstrate that they have a policy of encouraging voucher holders to search outside of concentrated areas in order to earn SEMAP points under the housing opportunity performance indicator. They also must show that they have prepared maps indicating areas with housing opportunities that are not poverty or minority concentrations, both within their jurisdiction and in neighboring jurisdictions. In addition, they must demonstrate that they have put together information about job opportunities, schools, transportation, and other services in these areas, and that they have used the maps and other information when briefing rental voucher holders about the full range of areas where they may look for housing. If a family is currently living in a high poverty tract in the PHA's jurisdiction, the briefing must be used to explain the advantages of moving to an area that does not have a high concentration of poor families. In addition, SEMAP requires PHAs to demonstrate that they provide voucher holders with a list of owners who are willing to lease, or a list of properties available for lease, or a list of organizations that help families find units in non-impacted areas. The information packet provided to new voucher holders at the initial orientation should also include an explanation of how portability works and a list of portability contact persons in neighboring housing agencies. PHAs should also be able to give evidence that they have considered whether voucher holders have experienced difficulty finding housing outside areas of poverty or minority concentration. If such difficulties have been found, PHAs should be able to demonstrate that they have deliberated about whether it was appropriate to seek area exception rents for parts of their jurisdiction, and, in fact, have done so, if warranted.

Metropolitan area PHAs can also earn up to five SEMAP bonus points if they are able to document that one-half or more of all families with children assisted by the PHA in its principal operating area at the end of the last PHA fiscal year resided in low-poverty census tracts. They can also earn bonus points if they can show that the proportion of mover families with children who found units in low-poverty census tracts in the PHA's principal operating area during the last fiscal year was at least two percentage points higher than the proportion of all families with children who resided in low-poverty census tracts. Likewise, they can earn bonus points for demonstrating that the percent of mover families with children who moved to low-poverty census tracts in the PHA's principal operating area over the last two completed PHA fiscal years is at least two percentage points higher than the percent of all families with children who resided in low-poverty census tracts at the end of the second to last completed PHA fiscal year.<sup>28</sup> For this purpose, a low poverty census tract is defined as one in which the poverty rate is at or below 10 percent, or at or below the overall poverty rate for the principal operating area of the HA, whichever is greater.

*Encouraging Participants to Rent Outside of Areas of Concentration – Issues and Approaches:* Often agencies that are particularly proactive about encouraging participants to move to non-impacted areas participate in special programs like Moving To Opportunity (MTO) and Regional Opportunity Counseling (ROC) based on the premise that escaping from high poverty neighborhoods can enhance the life opportunities available to poor people. And,

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<sup>28</sup> The final rule establishing SEMAP standards is dated October 13, 1998. The effective date for initial ratings under SEMAP is August 1, 2000, and final ratings will be assigned in January 2001 for all PHAs with fiscal years ending September 30, 2000.

to the PHAs that participate in them, the fact that these special programs provide such tools as individual or small group counseling, transportation, and other supportive services is deemed critical to their ability to carry out their objectives. Drawing on ROC resources, a medium-sized PHA in the South that transports households to units in non-impacted areas, also talks with owners on their behalf. One very large PHA in the West is able to offer the carrot of the services available through ROC to help overcome the loss of neighborhood support networks when they move out of impacted areas.

Many agencies that have been especially successful in encouraging voucher holders to move to low-poverty areas attribute their success to the resources like transportation and counseling they can bring to bear as a result of special programs they participate in. Because of special counseling it can provide through the Moving To Opportunity (MTO) program, one very large Middle Atlantic PHA reports that 50 percent of the residents that received counseling were able to find units in a low-poverty area. During a three-day session attended by small groups, ROC counselors encouraged voucher holders at one very large PHA in the South to move out of what it characterized as “drug infested areas”, and a member of the PHA staff actually assists in their searches and provides transportation. As a consequence, over 1,000 families relocated by January 1, 2000.

Many PHAs, both those that are proactive in encouraging participants to move to non-concentrated areas and those that are less so, point out a variety of factors that they believe push participants toward concentrated areas. Many report that participants prefer to stay within areas of concentration because these provide a comfort zone important to them. Voucher holders prefer to live where they have roots, where their doctors are, and where their churches and their families are located. One very large Mid-Atlantic PHA reports that only 40 families have moved out of impacted areas, despite the fact that 700 families are enrolled in the ROC program. In addition, entry-level jobs are not necessarily in or convenient to outlying and less impacted locations. One large PHA in the Northeast says that jobs available to people without a lot of education, including retail and hospital jobs, are concentrated in the city’s core and that voucher holders would be unwise to move to neighborhoods far removed from these jobs.

Some PHAs cite housing-related reasons why people concentrate their search efforts in traditional areas, despite any efforts PHAs might make to encourage them to do otherwise. Sometimes, these areas contain the bulk of the local affordable housing. For example, one very large PHA in the West notes that though concentrated areas are all in the northern section of its jurisdiction, this is also the area where participants can use their assistance because the rents are comparatively cheaper. Hence, participants tend to concentrate their searches in this area. Furthermore, PHAs point out that landlords in non-traditional areas often maintain more stringent standards for qualifying potential renters, particularly when the housing market is tight. Voucher holders are passed over in favor of people with a “better rental history.” They can choose people who have always paid their rent on time and have never been in arrears. Such problems are said to multiply for voucher holders who have never rented in the private market and lack the negotiating experience necessary to win over

reluctant landlords. This is reported to be the case in jurisdictions where many former public housing residents are among those trying to use vouchers.

Some PHAs point to program features that they consider impediments to participants seeking units in non-impacted areas and that work against any encouragement they can offer. Some cite the allowable search period, which they consider inadequate.<sup>29</sup> In some places, even 120 days is reported to be an insufficient window for voucher holders searching for affordable units in non-traditional areas; although, as noted earlier, PHAs no longer have to restrict the search period to 120 days.

Some PHAs also cite the 40 percent rent burden cap as a constraint for those who would otherwise be willing to pay a higher share of their income in return for greater choice in the market and the promise of upward mobility. At least at initial lease-up, families cannot assume a rent burden in excess of 40 percent for a unit whose gross rent exceeds the applicable payment standard for the family. Thus, the rent burden restriction particularly affects new participants.

Some housing agencies believe the decision about where to live is a fundamental right of participants and should not be taken away. These PHAs believe they should not intercede when voucher holders want to live in close proximity to their families and social networks. This belief in the right of residents to choose is often strongly affirmed in areas that have large concentrations of ethnic or racial minorities. One large PHA in the Southwest that has a large Hispanic population, describes itself as “dancing around” the issue of minority concentration.

*Encouraging Participants to Rent in Non-Traditional Areas – What PHAs are Doing:* Over 80 percent of PHAs that believe concentration is a problem in their jurisdictions report taking steps to encourage participants to search outside of areas the PHA does not view as concentrated (85.6% of PHAs) (see Table III-4 and Appendix B). Almost all PHAs that are doing something use the briefing sessions they hold for all new voucher holders as a forum for encouraging them to search in non-impacted areas. At these sessions, PHAs often provide maps of non-impacted areas and lists of landlords who have units to rent in such areas.

**Table III-4: PHA Efforts To Encourage Resident Participation In Non-Impacted Areas, By Program Size\***

PHA Size	No Effort		Regular Effort		Special Effort	
	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs
<b>Small</b>	110	16.9	472	72.4	70	10.7
<b>Medium</b>	21	13.0	112	69.6	28	17.4
<b>Large</b>	0	0.0	58	71.6	23	28.4
<b>Very Large</b>	2	7.1	15	53.6	11	39.3
<b>Totals</b>	133	14.4	657	71.3	132	14.3

\* This table includes only PHAs that regard concentration as a problem.

Among PHAs indicating that concentration is a problem, just 14 percent make a “special effort” to encourage participants to move to non-impacted areas (see Table III-4) by

<sup>29</sup> The search time is no longer restricted to 120 days.

providing one-on-one counseling and/or transportation during the search process. Counseling is viewed as a particularly effective tool for encouraging families receiving housing assistance to search in non-concentrated areas. It is a major tool in the ROC Program and the Moving To Opportunity demonstration program to reduce concentrations of poverty and move public housing families to neighborhoods with more opportunities for self-sufficiency.

PHA size, however, makes a considerable difference in whether PHAs engage in special efforts to assist residents. A small minority of small PHAs use counseling or transportation, but a larger percentage of very large PHAs do so (see Table III-4). These differences may reflect the differences in the extent to which concentration is a problem and the differences in the level of staffing permitted by the administrative fee.

Mid-Atlantic PHAs are most likely to use counseling as a tool to encourage participants to search for housing in non-concentrated areas.

**PHA Efforts To Encourage Participants To Search In Low-Poverty Areas, By Number Of Units**

As noted earlier, PHAs are the main focus of this report. But it is helpful to know how many units are found in PHAs that make a special effort to encourage participants to search in low-poverty areas. Almost one-quarter of Section 8 units are managed by PHAs that make such an effort to encourage residents to find units outside areas of concentration. This is somewhat higher than the 14 percent of all PHAs noted in the table above.

### **Attracting Owners Outside Areas Of Concentration**

One of the SEMAP performance indicators rates metropolitan-area PHAs on whether they have a program in place to expand housing opportunity. Specifically, PHAs must: demonstrate they have a program to encourage participation by owners of units outside areas of poverty or minority concentration; inform voucher holders of the full range of areas where they can lease, including places inside and outside the PHA's jurisdiction; supply voucher holders with a list of landlords who are willing to lease units; and help families find units, including those outside areas of poverty or minority concentration. It is up to the PHAs to decide what areas constitute minority and poverty concentrations.<sup>30</sup>

To encourage non-participating landlords with units in areas that do not have concentrations of poverty to make their units available, PHAs can do a number of things, including publicizing their program to prospective landlords by such means as newspaper ads, posters, and pamphlets; belonging to, and attending meetings of, organizations that landlords participate in; and conducting landlord meetings, holding workshops for landlords, and even engaging in one-on-one landlord outreach.

*Attracting Owners Outside of Areas of Concentration – Approaches and Issues:* Some PHAs that have chosen to do extensive outreach to landlords in non-impacted areas participate in mobility programs, like ROC and Welfare to Work, where such outreach is an integral component. Spurred on by their participation in such mobility programs, they make a

<sup>30</sup> In addition to the housing opportunity indicator, SEMAP also provides a deconcentration bonus in which concentration is defined relative to the poverty rate of the PHA's principal operating area. The effective date of the SEMAP final rule was 10/13/98.

special effort to explore rental options that have not been previously tapped. One medium-size PHA in the South that received 700 Welfare To Work vouchers was able to locate some landlords in non-traditional areas who, it discovered, were eager to have such tenants. Some PHAs doing extensive outreach to landlords in non-poverty areas indicate that the higher payment standard for calculating monthly assistance payments has also been an important tool for reaching these owners. One very large PHA in the South with a ROC program has noticed that it has been much easier attracting landlords since its payment standard was increased.

Some PHAs report that, despite their best efforts, the conditions in their local markets make it difficult to attract owners in non-impacted areas. The stigma sometimes associated with the program is said to be more of a factor in markets where landlords have lots of choices. One very large PHA in the West, located in a jurisdiction where vacancy rates are very low, notes that outreach to owners in non-traditional areas “falls upon deaf ears.” These landlords can get top dollar for their units, and do not need the PHA to provide them with tenants. Low vacancy rates have been given as the reason why some PHAs give a preference to families who will lease in place and use their vouchers in their current units. Such families have already succeeded in their housing search.

The response of landlords in very tight markets is said to be particularly tepid when FMRs are felt to lag behind the rent structure. Some PHAs feel that they have been more successful reaching landlords in non-impacted areas because they have been able to raise their payment standard. One very large PHA in the South reports having an easier time attracting owners outside of concentrated areas since it raised its payment standard.

Some PHAs find it difficult to attract owners in non-impacted areas simply because there are few such areas within their jurisdictional boundaries. In one large PHA in the Northeast, there are only two neighborhoods out of the 16 in the city that are not impacted. Some PHAs in this situation feel they should be able to earn extra SEMAP deconcentration points for simply encouraging participants to use their vouchers to port to other jurisdictions, believing that it is the only viable option for avoiding areas of concentration.

On the other hand, a recurrent reason given by PHAs that report they do not make an extensive effort to market the program is that they are located in areas with loose rental markets where there is an adequate supply of affordable rental housing. One medium-size PHA in the South mentioned that owners wishing to participate in the program offer their units without even being approached. Attracting owners has also been described as one of the easier tasks facing one large Mid-Atlantic PHA. Some landlords in its jurisdiction are actually building units just so they can participate in the program. Likewise, in California, where there is reported to be more market acceptance of Section 8, some PHAs feel that the deconcentration measure may presuppose a problem that does not exist. These non-proactive PHAs believe they are not derelict because they find no encouragement is necessary.

One reason given by some PHAs that do not make an extensive outreach effort to attract owners outside of concentrated areas is that such an effort involves tilting toward one

group of landlords, and such favoritism is not considered appropriate or fair. For this reason, these PHAs refuse to recommend particular areas and landlords. There is also a concern that landlords with properties in less desirable areas may react negatively to being effectively redlined by being defined as off-limits for program participants. Thus, one small PHA in the South reports it has become cautious about reaching out to some landlords but not to others after a group of small property owners in an impacted district complained about being boycotted.

*Encouraging Owners Outside of Concentrated Areas – What PHAs are Doing:* The policy of encouraging owners of units in non-impacted areas to participate in the program is intended to increase the pool of units available to voucher holders outside areas of minority or poverty concentration. A little over one-half of all PHAs (56.9%) are located in jurisdictions where the PHA views concentration as a problem. The larger the PHA, the more likely it is to report that there are areas of minority or poverty concentration within its jurisdiction. About 85 percent of large and very large PHAs report such concentrations, whereas just over 50 percent of small PHAs do so. In terms of region, PHAs in the Northeast are most likely to report that concentration is a problem (73.3% of these PHAs).

In areas reported to have concentrations, just under seventy percent of PHAs report making some effort to encourage the participation of owners in non-impacted areas. About one-quarter of PHAs in these areas are especially proactive to the extent of initiating direct contact with individual owners or groups of owners in non-concentrated areas to encourage them to join the program (26.7% of PHAs). PHAs that are less proactive depend upon newspaper notices and flyers, or they may attend landlord meetings without actually initiating them (see Table III-5).

**Table III-5: PHA Efforts To Encourage Landlord Participation, By Program Size**

PHA Size	No Effort		Regular Effort		Special Effort	
	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs
Small	207	32.4	322	50.5	109	17.1
Medium	42	29.2	38	26.4	64	44.4
Large	4	6.6	13	21.3	44	72.1
Very Large	4	22.2	1	5.6	13	72.2
<b>Totals</b>	<b>257</b>	<b>29.8</b>	<b>374</b>	<b>43.4</b>	<b>230</b>	<b>26.7</b>

\*This table includes only PHAs that regard concentration as a problem.

Larger agencies are much more likely to be proactive insofar as they make “special efforts” to reach out to landlords, either by convening meetings with landlord groups or by initiating individual contacts. The great majority of large and very large agencies, but a much smaller percentage of small and medium-size agencies, are proactive (see Table III-5).

**Encouraging Landlords In Low-Poverty Areas To Participate, By Units**

Overall, a little more than one-third of all units in the program are administered by PHAs that make a special effort to encourage landlords in non-poverty areas to participate in the program.

While a majority of PHAs in the Northeast and Mid-Atlantic regions take some measures to encourage the participation of landlords outside of concentrated areas, they are the least likely to be proactive (see Table III-6).

## Planning A Homeownership Program

QHWRA provides housing agencies with the option of using the voucher program to assist homeownership.<sup>31</sup> Housing agencies are allowed to provide assistance to an eligible family that purchases a unit, including a unit under a lease-purchase agreement.

With the payment standard as the ceiling, the monthly assistance toward homeownership is the amount by which homeownership expenses exceed 30 percent of the monthly-adjusted income of the family or 10 percent of the monthly income of the family.

**Table III-6. PHAs With Proactive Policies For Encouraging Landlord Participation, By Region \***

Region	No Effort		Regular Effort		Special Effort	
	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs
NorthEast	94	43.7	103	47.9	18	8.4
Mid-Atlantic	19	36.5	26	50.0	7	13.5
MidWest	0	0.0	116	80.6	28	19.4
South	8	2.2	263	72.1	94	25.8
SouthWest	0	29.8	92	43.4	49	26.7
West	21	29.2	27	37.5	24	33.3
NorthWest	0	0.0	12	54.5	10	45.5

*Planning A Homeownership Program – Issues and Approaches:* Although QHWRA gives PHAs the option of using their vouchers to establish a homeownership program, the final regulations had not yet been issued at the time of the discussions with PHAs.<sup>32</sup> A number of housing authorities otherwise interested in a homeownership program did not plan to go forward until the rules were finalized. Although a proposed rule for using Section 8 voucher funds in support of homeownership was published, PHAs required special HUD permission to implement it. Nevertheless, many PHAs planning to use the homeownership option see it as an important way to extend the range of housing opportunities available to participants. They also view homeownership as a tool for stabilizing neighborhoods.

Many of these PHAs have special arrangements with banks or have their own internal resources for making homeownership available to participants. Thus, one very large PHA in the West has identified several lending institutions that are interested in working with them through first-time home buyer programs. Another large PHA in the Southwest has some properties of its own that it could sell to tenants interested in becoming home owners.

Some PHAs believe they already have adequate vehicles for providing homeownership opportunities to participants. In fact, before QHWRA was enacted, a number of PHAs were already providing homeownership opportunities to program participants through Family Self-

<sup>31</sup> Section 555.

<sup>32</sup> A final rule was issued on September 12, 2000.

Sufficiency and other programs. One medium-size PHA in the Northeast that acquired FHA-foreclosed properties at a discount price gave its FSS graduates an opportunity to buy them.

A number of housing agencies have decided not to use the voucher program to extend homeownership opportunities to program participants because they believe doing so is unrealistic.<sup>33</sup> They are concerned that voucher recipients do not have the income capacity to take on the financial responsibilities of homeownership.<sup>34</sup> One large PHA in the West believes that new participants from the extremely low-income group would not have enough disposable income for home maintenance, and a homeownership program would just set such people up for failure.<sup>35</sup> Participating households could run into difficulty with the city's code enforcement agency because they would not have sufficient income to perform the necessary maintenance. The perceived disconnect between participant's income and the costs of homeownership is exacerbated in some places by the high cost of housing. Some California housing agencies have concluded that housing prices are simply too high in their jurisdictions to make homeownership feasible for low-income voucher holders.

Some PHAs that are reluctant to use vouchers to launch a homeownership initiative are concerned that the mortgage market would not be receptive. One large PHA in the West will not offer a homeownership program because it says that local bankers would not agree to extend mortgages to the program population. Bankers, it believes, are concerned about the income and job stability of program participants. The PHA is also unclear where a down payment would come from and how a mortgage would be structured that depended on vouchers for mortgage payments. While FSS participants on a homeownership track have been able to draw upon their escrow accounts, some PHAs believe that regular voucher holders would have to depend upon their subsidies. Lenders, who need to be able to project the income stream of home buyers, could become concerned that the HUD-guaranteed share would decrease as tenant income increased. They might also demur because the subsidy could be affected by a fluctuating payment standard. Furthermore, it is unclear what would happen in the case of a foreclosure.

Some PHAs that are reluctant to launch a homeownership program express equity concerns about other households who would not be beneficiaries and about consequent political fallout in their communities. One large PHA in the Southwest noted that using vouchers to pay mortgages could keep the vouchers from circulating to other households for ten or more years. One medium-size PHA in the Northeast, that has decided not to exercise the homeownership option, believes it would be inappropriate to provide homeownership opportunities to people who have been or are now in the welfare system, when low-wage households, who work and have never been in the welfare system, cannot afford to own homes.

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<sup>33</sup> Even agencies that have no plans to operate a homeownership program are aware that they must offer homeownership options to persons with disabilities using Section 8.

<sup>34</sup> PHAs are directed to restrict homeownership programs to those who can afford the maintenance and operating costs.

<sup>35</sup> The new homeownership initiative allows voucher holders to maintain an escrow account which they can draw upon for necessary repairs and maintenance.

*Homeownership – What PHAs are Doing:* One-fifth of PHAs already had homeownership efforts underway prior to QHWRA, and some of these agencies see no reason to mount another homeownership initiative with vouchers as the vehicle. Nevertheless, despite their stated caveats, nearly one-half of PHAs are interested in using the voucher program as a vehicle for offering homeownership opportunities, though most of these agencies have not yet begun to plan their program. There is no way of knowing what proportion of those who now express interest will actually carry through with a homeownership program. Large PHAs are those most likely to have expressed interest in establishing a homeownership program, while those both smaller and larger did so less often (see Table III-7).

### Use of Vouchers For Special Housing Types

PHAs may permit families to use any special housing type, which include single room occupancy housing (SRO), congregate housing, group homes, shared housing, or cooperative homes. By the same token, PHAs are not required to permit the use of vouchers in any of

**Table III-7. Likelihood Of Exercising The Homeownership Option, By Program Size**

PHA Size	Unlikely		Have Not Decided		Interested/Planning Not Yet Begun		Interested/Planning Begun	
	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs
<b>Small</b>	591	45.4	97	7.4	472	36.2	143	11.0
<b>Medium</b>	70	42.9	7	4.3	56	34.4	30	18.4
<b>Large</b>	14	20.3	12	17.4	27	39.1	16	23.2
<b>Very Large</b>	2	11.8	7	41.2	4	23.5	4	23.5
<b>Totals</b>	677	43.6	123	7.9	559	36.0	193	12.4

these special housing types, except as a reasonable accommodation for persons with disabilities. Manufactured homes are in a group by themselves in that PHAs must permit families to lease manufactured homes with assistance under the tenant-based Section 8 program.

The facilities or living arrangements in these special housing types set them apart from more traditional rental units. In shared housing, two or more families share a unit that consists of both common space for all of the occupants and separate, private space for each assisted family. Group homes are licensed by a State for the exclusive residential use of two to 12 people who are either elderly or have disabilities. Single room occupancy housing consists of units that do not have both sanitary facilities and food preparation facilities for the exclusive use of occupants who must share one or both. Though they must be decent, safe, and sanitary, in some cases, the applicable housing quality standards associated with these special housing types are somewhat different from those applying to conventional units in the

tenant-based Section 8 program. For example, SROs and congregate housing do not have to have a kitchen area. Group homes may contain private or common sanitary areas.

*Use of Vouchers For Special Housing Types – Issues and Approaches:* Some PHAs have actually adopted policies about the use of vouchers in these special housing types regardless of whether they are actually being used. Other agencies, never formally adopting such policies, have never received a request to use vouchers in a special housing type. In some cases, this is because such housing does not exist within the jurisdiction. For example, many larger cities do not have manufactured housing within their jurisdictional limits. In some communities, there is reported to be no pressure to allow the use of vouchers in special housing types because there are plenty of housing resources available for some of the households who might otherwise turn to these arrangements. One small PHA in the Midwest has so many one-bedroom apartments that the needs of single person households can be taken care of without needing to call upon SRO units or other special housing types.

Some PHAs express concern about how they could allow such use of vouchers while abiding by the rules of the program. One large PHA in the West raised a question about the legality of occupancy in a situation where the voucher holder resided in a group home. In this case, the PHA wondered who the designated head of the household would be and who would be responsible for the rent. A very large PHA in the West pointed out that another problem of allowing vouchers to be used in special housing types is that some have different housing quality standards from those that usually apply to the tenant-based Section 8 program. Besides being non-conforming, some of these special housing types are said to be of inferior quality or are dilapidated. In one medium-size PHA in the South, it would be difficult for a mobile home to pass housing quality standards because there are a large number of substandard mobile homes in the county, and they have become a sore point. Many group homes in a medium-size PHA in the South are also substandard.

In some PHAs, these special housing types are being used in the project-based Section 8 program but not in the tenant-based program. Hence, one very large Mid-Atlantic PHA assists people living in SROs, but through its project-based program. But in some cases, PHAs have decided to allow the use of vouchers in special housing types in the tenant-based Section 8 program when they have received a special allocation of vouchers for populations with special needs. One medium-size PHA in the Midwest allows participants holding Mainstream vouchers to use them in group homes. Another large PHA in the Midwest, which has received some special set-asides for people in domestic violence situations, as well as through the Mainstream, Designated Housing, and Family Unification programs allocations, allows all of those receiving such vouchers to use them in special housing types.

*Use of Vouchers in Special Housing Types – What PHAs are Doing:* About one-quarter of PHAs have no policy regarding the use of vouchers in special housing types. Only a small minority actually restrict their use in all of the special housing types (SROs, group

homes, cooperative homes, and shared housing), except manufactured homes (16.5% of PHAs) (see Table III-8).<sup>36</sup>

Small PHAs are those most likely to be restrictive; 18 percent of them prohibit the use of vouchers in all special housing types. Very large PHAs are most likely to allow their use across all of the special housing types—a majority of them do so.

**Table III-8. Restriction on The Use of Vouchers in Special Housing Types, By Program Size**

PHA Size	Not Allowed For Any Type		Allowed For Some Types		Allowed For All Types		No Special Hsg. Or No Policy	
	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs
Small	230	17.5	570	43.3	168	12.8	349	26.5
Medium	19	11.4	127	76.5	5	3.0	15	9.0
Large	6	10.3	26	44.8	18	31.0	8	13.8
Very Large	2	12.5	4	25.0	9	56.3	1	6.3
<b>Totals</b>	<b>257</b>	<b>16.5</b>	<b>727</b>	<b>46.7</b>	<b>200</b>	<b>12.8</b>	<b>373</b>	<b>24.0</b>

In terms of region, PHAs in the Midwest are most likely to restrict the use of vouchers in special housing types across the board (46.2% of these PHAs), while PHAs in the Mid-Atlantic do not have any across the board restrictions (see Table III-9).

### Assistance For The Hard To House

Section 8 program participants include some hard-to-house households. These are very large households and households with disabilities. For them, finding a suitable unit can be more difficult. In some markets, accessible units, or units with many bedrooms, are not common. Obviously, the logistics of searching are also more complicated for families with many children and for people with physical or mental disabilities.

HUD may approve additional funding to PHAs to cover the costs incurred assisting persons with disabilities to find reasonable accommodations when PHAs cannot cover such

costs out of their ongoing administrative fee income. There is also a special fee for moving costs for hard-to-house families with three or more minors .<sup>37</sup>

<sup>36</sup> PHAs are specifically required to allow the use of vouchers in manufactured homes.

<sup>37</sup> Notice PIH 2000-28.

**Table III-9. Restriction on The Use of Vouchers in Special Housing Types, By Region**

Region	Not Allowed For Any Type		Allowed For Some Types		Allowed For All Types		No Special Hsg. Or No Policy	
	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs
<b>Northeast</b>	7	2.1	141	42.3	49	14.7	136	40.8
<b>Mid-Atlantic</b>	0	0.0	104	83.9	18	14.5	2	1.6
<b>Midwest</b>	152	46.2	123	37.4	7	2.1	47	14.3
<b>South</b>	60	14.7	180	44.1	57	14.0	111	27.2
<b>Southwest</b>	20	12.3	37	22.7	42	25.8	64	39.3
<b>West</b>	11	8.7	86	67.7	16	12.6	14	11.0
<b>Northwest</b>	8	11.0	55	75.3	10	13.7	0	0.0

*Assistance For The Hard To House – Issues and Approaches:* A number of PHAs have expressed concern about their ability to assist the hard-to-house. According to many PHAs, no amount of extra effort can help hard-to-house households in communities that simply lack large or accessible units. For communities that are so categorized, portability has been described as the only viable option. For example, one large, suburban PHA in the Midwest directs large families to the inner city where there is a larger supply of suitable units. Some PHAs are also located in competitive rental markets where landlords do not feel the need to accommodate tenants with special needs, whom they sometimes regard as bringing unnecessary problems. Landlords in the jurisdiction of one large PHA in the Southwest have expressed reluctance to rent to large families because of a concern about greater wear and tear on their units.

Some PHAs noted that they now have less incentive to make a special effort to assist the hard-to-house, particularly larger families. Whereas they used to get a fee from HUD assisting such households, a number of PHAs note that this is no longer the case. Many communities feel they lack the staffing or the time to provide special assistance to such households. Furthermore, some PHAs feel they should distance themselves from the landlord/tenant selection process, even for the hard to house. For this reason, they avoid direct outreach to landlords and stay out of the business of brokering.

Some PHAs in communities where there are more housing opportunities for large or households with disabilities view their additional support as not that critical. One medium-size PHA in the Northeast with a limited staff has an ample supply of older, larger apartments in the community suitable for families with many children. Some communities also have fewer households falling into the hard to house category. One small PHA in the Northwest is divesting itself of its public housing because the demand has shifted from large to smaller units, as fewer large families in the community seem to be in need of housing.

As with special housing types, some PHAs are able to assist the hard-to-house as a result of the special allocations they have received. One very large PHA in the South is able to assist households with disabilities through the Mainstream program; through the Family Unification program, it is able to house some large families who had split up, in some cases because they had so many members. Furthermore, some PHAs have partnerships with service organizations that have the resources to link hard-to-house households with units appropriate for such households. One large PHA in the Northwest refers people to a local organization that knows where wheelchair-accessible units are located.

*The Hard To House – What PHAs are Doing:* Over one-half of housing agencies report that they are providing some form of assistance to the hard-to-house. The most frequent form of assistance is to provide lists of landlords having large units suitable for large families or accessible units suitable for families with members who have disabilities.

In some cases, however, these lists are no different from those provided to other households. About five percent of PHAs provide special assistance for hard-to-house families by negotiating directly with landlords on behalf of particular families (see Table III-10).

Very large PHAs are those most likely to provide some form of assistance to the hard-to-house and those in the Mid-Atlantic, West, and Northwest are most likely to do so (see Tables III-10 and III-11). PHAs in the Northeast are those least likely to offer assistance to the hard-to-house.

In addition to direct assistance, PHAs are also able to grant a longer search period to the hard-to-house, even if this simply means allowing them 120 days to search. Some PHAs allow such households to search even longer than 120 days, if the extra time is needed. Some also provide exception payment standards for participants with disabilities to cover the cost of leasing accessible units.

**Table III-10. Assistance To The Hard To House, by PHA Size**

PHA Size	No Assistance Provided		Regular Assistance Provided		Special Assistance Provided	
	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs
<b>Small</b>	432	48.1	421	46.8	46	5.1
<b>Medium</b>	32	41.5	45	58.4	0	0.0
<b>Large</b>	13	40.6	16	50.0	3	9.4
<b>Very Large</b>	2	28.6	4	57.1	1	14.3
<b>Totals</b>	479	47.2	486	47.8	50	4.9

**Table III-11. Assistance To The Hard To House, by Region**

Region	No Assistance Provided		Regular Assistance Provided		Special Assistance Provided	
	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs
<b>NorthEast</b>	225	83.0	45	16.6	1	0.3
<b>Mid-Atlantic</b>	23	21.7	82	77.3	1	0.9
<b>MidWest</b>	59	36.2	102	62.6	2	1.2
<b>South</b>	109	46.8	124	53.2	0	0.0
<b>SouthWest</b>	47	40.5	49	42.2	20	17.2
<b>West</b>	15	19.2	52	66.6	11	14.1
<b>NorthWest</b>	2	0.4	33	66.6	15	30.0



## IV. DISCRETIONARY AUTHORITY – RENT POLICIES

PHAs have a lot of discretion to decide the amount participants pay for rent as well as the amount of their rent subsidy. They have the option of conducting an interim redetermination of family income and recalculating subsidy when family income increases. They can choose to set minimum rents at any level between zero and \$50. They can decide to set the payment standard at any level between 90 and 110 percent of the FMR. And they can decide whether to request exception payment standards that exceed 110 percent of FMR. They also can choose what information sources they will use and what methods they will employ to make rent reasonableness determinations, and can decide who will perform the determinations.

### Recalculating The Subsidy

In order to determine continuing program eligibility, PHAs must conduct a reexamination of family income at least annually. At any time, PHAs may also conduct interim reexaminations of family income. When a voucher holder's income increases, PHAs can recalculate the subsidy or can wait until the next annual reexamination. Between these extremes, they may also recalculate the subsidy only when household income increases beyond a certain amount, or only for certain households. However, households whose incomes decrease can request an immediate recalculation of their subsidy.

*Recalculating The Subsidy - Issues and Approaches:* PHAs that wait until the next annual recertification to recalculate participant subsidy, or who do not recalculate it unless income increases beyond a specified threshold, say they want to give households the opportunity “to get on their feet” and consolidate their gains. They view not recalculating the subsidy as a work incentive for those who have gone from welfare to work, and, in fact, some PHAs that participate in the Welfare To Work voucher program are among those with this policy. Some PHAs will only recalculate the subsidy of newly working families if their incomes exceed a certain amount. Again, the purpose is to give low-income families an incentive to continue working. Some PHAs that do not immediately recalculate subsidy payments note that the income of newly employed households, particularly those in entry-level jobs, tends to fluctuate and is not always secure.

One other reason that some PHAs give for not immediately recalculating the subsidy of households whose incomes increase is that the administrative burden and cost of interim examinations and subsidy recalculations are not justified unless the income increase is sufficient to make the effort worthwhile. One medium-size Mid-Atlantic PHA sets an annual income trigger of \$2,000, and a large PHA in the Midwest does not bother to recalculate subsidy unless household income rises by more than \$150 a month. Some PHAs tie the trigger to the amount by which rent would increase, given the fact that they only receive 30 percent of the marginal increase in income. Thus, one large PHA in the Northwest only recalculates the increase in between annual recertifications when it would make a \$100 or more difference in the monthly rent. Some agencies have a policy of not recalculating the

subsidy of people whose income increase comes from the same income source, such as a wage increase rather than a new job, because, as one small PHA in the South pointed out, such increases often do not amount to much.

Some agencies indicate that they are also concerned about adopting a policy that could discourage participants from reporting income increases. For this reason, one medium-size PHA in the West is about to change its practice of recalculating the subsidy between annual certifications because it discourages families from reporting income increases when they get a steady job. But some PHAs use the same reasoning to come to the opposite conclusion. One medium-size PHA in the Northwest that recalculates subsidy when household income increases believes it sends the message that families who want the steady income that comes from employment cannot beat the system by timing the cycle of quitting and then finding new jobs to coincide with the annual certification cycle. Some PHAs that do not recalculate the subsidy try to encourage reporting income increases by sanctioning people who do not.

Some agencies that recalculate subsidy when household income increases view doing so as only being fair to other rent-paying households. One small Mid-Atlantic PHA believes that restricting income adjustments to the annual recertification for people going from no employment to some employment would be unfair to tenants who were working all along and paying higher rent commensurate with their higher incomes. Some PHAs also believe that allowing participants to hold onto extra income could lead to an unrealistic sense of how money should be handled. Families used to spending at higher levels will ultimately be faced with having to pay higher rents after their annual recertification. Some agencies that recalculate the subsidy of households whose income increases view the additional revenue as a way to help more households.

Many PHAs immediately recalculate the subsidy for households participating in Family Self Sufficiency (FSS), not to extract higher rent payments, but to allow these households to accumulate more in their escrow accounts.<sup>38</sup> This is in line with the purpose of the FSS program which is to encourage communities to develop strategies for helping families obtain employment that will lead to economic independence and self-sufficiency. FSS participant escrow accounts can be used for homeownership or other worthwhile purposes.

*Recalculating The Subsidy - What PHAs are Doing:* When voucher holder income rises between annual recertifications, PHAs can decide to recalculate subsidy in every case, in just some cases, or not to recalculate the subsidy at all. Just under one-half of PHAs have an across the board policy of recalculating the subsidy before the next annual recertification (see Table IV-1). Somewhat more than one-third recalculate the subsidy in some cases but not in all.

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<sup>38</sup> In FSS, an interest-bearing escrow account is established by the PHA for each participating family that may be used for self-sufficiency purposes. A credit, based on increases in earned income of the family, is added to this account by the PHA during the term of the five-year FSS contract.

Large and very large PHAs are those most likely to wait until the next annual certification before recalculating the subsidy of a voucher holder whose income has increased. Small PHAs are those most likely to recalculate the subsidy soon after an income increase

**Table IV-1. PHA Response To Household Income Increases, By Program Size**

PHA Size	Wait To Annual Certification To Recalculate Subsidy		Sometimes Recalculate Subsidy Before Annual Certification		Always Recalculate Subsidy Before Annual Certification	
	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs
Small	158	11.6	506	37.1	700	51.3
Medium	59	30.7	62	32.3	71	37.0
Large	34	47.9	19	26.8	18	25.4
Very Large	10	47.6	7	33.3	4	19.0
<b>Totals</b>	261	15.8	594	36.0	793	48.1

occurs. Larger PHAs would be likely to have a larger volume of interim recertifications to process, were they to recalculate the subsidy although this may be somewhat offset by the fact that they have more staff.

PHAs in the West are also those most likely to forego recalculating the subsidy until the next annual certification (39.5% of these PHAs) (see Table IV-2). Housing agencies in the South are most likely to immediately recalculate the subsidy when household income increases (76.0% of these PHAs) and those in the West are least likely to do so (20.1% of these PHAs).

## Minimum Rent

**Table IV-2. PHA Response To Household Income Increases, By Region**

Region	Wait To Annual Certification To Recalculate Subsidy		Sometimes Recalculate Subsidy Before Annual Certification		Always Recalculate Subsidy Before Annual Certification	
	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs
Northeast	6	1.7	233	69.1	98	29.1
Mid-Atlantic	20	15.5	22	17.0	87	67.4
Midwest	117	30.8	109	28.7	153	40.3
South	39	9.1	63	14.7	324	76.0
Southwest	8	4.8	87	52.1	72	43.1
West	55	39.5	56	40.2	28	20.1
Northwest	16	22.5	25	35.2	30	42.2

QHWRA authorizes PHAs to set a minimum rent at any level between zero and \$50 a month, including utilities.<sup>39</sup> PHAs are required to grant an exemption for any family unable to pay the minimum because of financial hardship, defined as losing or awaiting eligibility for a Federal, State or local assistance program, the possibility of eviction as a result of imposition of the minimum rent requirement, and a decrease in the income of a family because of changed circumstance.

*Minimum Rent - Issues and Approaches:* Some agencies that set minimum rents at lower levels say they are concerned about the ability of people with no recorded income to come up with even a small amount. Thus, one very large Mid-Atlantic PHA, that sets the minimum at zero, states that it does so because it is concerned with the financial hardship that such households would experience were they required to pay even a small amount of money for rent. One large PHA in the South set the minimum at zero when it found that people resorted to selling their blood to pay their rent when the PHA charged a higher minimum rent.

Some agencies have recently lowered their minimum rent because they believe that the new rent burden restrictions on voucher holders preclude them from charging any minimum to people with no declared income. One small PHA in the South explained that a large number of its families have no source of income and would, therefore, have a rent burden “in violation of the statutes” if they were required to pay a \$25 minimum. In some places, it is reported that extremely low-income households also become excessively rent burdened when they must pay a minimum rent of \$25 or \$50.

Some PHAs forego collecting minimum rent for pragmatic reasons; they would incur administrative costs associated with the fact that assisted families can request a hearing if they think that paying a minimum would create a hardship. One medium-size PHA in the West set its minimum at zero because it concluded it was not cost-effective to conduct such hardship hearings. A very large PHA in the South has also changed its minimum rent from \$25 to zero because there are now a very large number of families that would qualify for the minimum, and it would have been “an administrative headache” to deal with hardship petitions from all of them. Part of the cost to PHAs comes from having to prove that people have more than zero income. Yet, it appears that most PHAs are willing to incur the cost of hardship hearings without revising their minimum rent downward.

Many PHAs have chosen a minimum rent at or around the middle of what they are allowed to charge, balancing the desire to collect some revenue and to hold hardship to a minimum. One large PHA in the South charges a minimum of \$25 on the theory that even households with no income can come up with \$25, but it might be harder to come up with \$50. Yet, some PHAs believe that even \$50 is a small amount. As one small PHA in the Northwest put it, “everybody can get \$50,” noting that only three households in their caseload have had any problem finding that amount. Another medium-size PHA in the Northwest uses a \$50 minimum and has never had anyone request a hardship waiver.

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<sup>39</sup> Section 507

Some agencies that charge the maximum allowed, \$50, do so because they believe that participants should have a stake in their housing. They feel that self-respect and a sense of responsibility are engendered when households pay rent instead of receiving something for nothing. One very large PHA in the West that charges \$50 believes that when people pay for a commodity like housing, it is more appreciated. Some PHAs also believe that the \$50 charge will encourage some people to become employed or to find other income sources to which they may be entitled, such as disability or social security.

*The Minimum Rent - What PHAs are Doing:* Over 40 percent of PHAs have chosen a \$25 minimum rent, in the middle of the range of what they are allowed to charge. Just about 40 percent have chosen a minimum of \$50 and fewer than 15 percent have set a zero minimum. The remainder of PHAs charge a minimum between these amounts (see Table IV-3).

Small PHAs are most likely to charge \$50 and very large PHAs are most likely to charge zero minimums. The volume of hardship waiver requests is likely to be greater in larger PHAs (see Table IV-3).

Housing agencies in the Northeast are those most likely to charge a zero minimum and those in the South are most likely to charge a \$50 minimum. A \$25 minimum is most commonly charged by agencies in the Mid-Atlantic and Midwest (see Table IV-4).

**The Payment Standard**

In order to calculate the monthly housing assistance payment for families assisted in the voucher program, QHWRA allows

PHAs to choose for each size dwelling unit a payment standard that does not exceed 110 percent of the Fair Market Rent (FMR) in the market area and is not less than 90 percent of that fair market rent.<sup>40</sup> PHAs can set different payment standards for different bedroom sizes and in different areas of their jurisdiction, but must request HUD approval to establish a payment standard that is higher or lower than the basic range.

**Table IV-3. Minimum Rent, By Program Size\***

PHA Size	Zero Minimum		\$25 Minimum		\$50 Minimum	
	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs
Small	204	15.0	550	40.3	599	43.9
Medium	28	14.1	120	60.6	50	25.3
Large	8	11.3	47	66.2	14	19.7
Very Large	4	21.1	9	47.4	6	31.6
<b>Totals</b>	244	14.8	727	43.9	669	40.5

\*Percentages do not add to 100 percent because PHAs that charge minimum rents of more than zero but neither \$25 or \$50 are not included in this table.

<sup>40</sup> Section 545, which covers the merger of the certificate and voucher programs.

In a new lease, a family can pay a rent higher than the PHA’s payment standard as long as the rent has been determined to be reasonable and what they pay does not exceed 40 percent of their monthly adjusted income.<sup>41</sup> HUD may require PHAs to make payment standard changes in situations where there has been a significant increase in rent burdens.

**Table IV-4. Minimum Rent, By Region**

Region	Zero Minimum		\$25 Minimum		\$50 Minimum	
	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs
Northeast	92	27.5	105	31.4	137	41.0
Mid-Atlantic	20	15.5	74	57.4	35	27.1
Midwest	10	2.6	221	58.5	147	38.9
South	61	14.1	161	37.2	209	48.3
Southwest	40	23.8	80	47.6	48	28.6
West	16	11.5	47	33.8	65	46.8
Northwest	5	6.9	38	52.8	29	40.3

Section 8 voucher programs are funded based on prior year outlays. Once funding is set, housing agencies that raise payment standards are not compensated for the difference between their old and their new payment standard in the year when they make the change.<sup>42</sup> However, in subsequent years, their funding will adjust to their raised payment standard.

PHAs are rated under SEMAP on their lease-up levels; in general, the higher the payment standard, the easier it should be for a voucher holder to find a suitable unit and for PHAs to achieve target lease-up levels. Twenty points go to agencies that have 98 percent of their contracted units under lease, 15 points to those who have 95-97 percent under lease, and 0 points to those who have fewer than 95 percent under lease.<sup>43</sup>

*The Payment Standard - Issues and Approaches:* In selecting a payment standard, some PHAs appear to be motivated by fiscal considerations that applied under the old renewal rule, which allotted them a fixed pot of money, but no longer apply under the new one that factors in a PHA’s actual per unit costs. Thus, some that have kept their payment standard closer to the lower limit give as one reason their desire to help as many people as possible. After some soul-searching, one very large PHA in the West, whose payment standard is 93 percent of the FMR, decided not to raise it to a higher level. Even though the PHA recognized that a higher payment standard could help voucher holders wanting to rent in non-impacted but more expensive areas, it rejected the higher standard because it would have meant that they would be able to help fewer people. The PHA believed that achieving greater deconcentration required such a tradeoff. However, under the new renewal rule, PHAs are compensated on the basis of their actual operating costs, and, therefore, PHAs with a higher payment standard will be compensated accordingly.

<sup>41</sup> If family income falls, or if the owner later raises the contract rent, the subsequent rent burden can lawfully exceed 40 percent of income.

<sup>42</sup> PHAs can access ACC reserves to cover shortfalls in the same year they raise payment standards.

<sup>43</sup> A rule change is underway and should be published in November.

Some agencies that have adopted a higher payment standard often state that they responded to evidence that their participants had a hard time finding affordable units. Thus, one small PHA in the South raised its payment standard to 110 percent of FMR for 2-,3-, and 4-bedroom units in order to ease the difficulties encountered by households searching for affordable units. To ensure continued landlord participation, another small PHA in the South raised its payment standard from 100 percent of FMR to 110 percent because many landlords had balked when it was set at the lower level. The amount was considered too low for the area. Setting the payment standard at a level intended to keep landlords in the program is particularly important in areas with a shortage of affordable units. One medium-size PHA in the West, where there is an economic boom and a huge increase in migration, felt that it had to set the payment standard above the FMR because, otherwise, voucher holders would have been shut out of the market.

Some PHAs considering higher payment standards are not merely interested in ensuring that voucher holders are able to find available units but, in addition, would like to increase the pool of units available to participants in non-impacted areas and to enhance their freedom of choice. By getting participants to consider non-traditional areas, PHAs find it easier to achieve their deconcentration goals. One large PHA in the Midwest brought its payment standard up to the FMR to encourage participants to consider non-traditional and non-impacted neighborhoods that they were reluctant to consider.

Many PHAs that adopt a higher payment standard are also concerned that their new enrollees not exceed the 40 percent rent burden that applies at initial lease up. Thus, one very large Mid-Atlantic PHA raised its payment standard from 86 percent to 100 percent of FMR payment because it was afraid that some former certificate holders might have been unable to afford their units.<sup>44</sup> Another PHA, with a large number of extremely low-income tenants, was inclined to set the standard at 90 percent of the FMR but, feeling “boxed in” by the rent burden limit, was dissuaded from adopting it.

Other PHAs have mentioned the need to weigh their local tenant selection preferences against the income targeting requirements when choosing a payment standard. One large Mid-Atlantic PHA has a preference to keep participant rent burdens at mandated levels and to have more leeway when setting the payment standard. However, the PHA feels that it may be difficult to maintain this preference because of the need to target very low-income families.

A number of PHAs assume that their payment standard should remain flexible to reflect housing market changes and differences that affect the difficulties experienced by participants seeking to rent units of different sizes or in different areas. These PHAs view the payment standard as tool that can be fine-tuned to capture fluctuations in the market. Thus, one large Mid-Atlantic PHA has a different payment standard for 4-5 bedroom units (110 percent of the FMR) than for smaller size units, where the standard is set at 100 percent of the FMR. The PHA raised the payment standard for the larger units because it found that market rents were disproportionately higher for these units. One small PHA in the Northwest set the

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<sup>44</sup> Subsequent changes in tenant income could lawfully raise the rent burden beyond 40 percent without triggering any action by the PHA.

payment standard at 100 percent of the FMR in six counties under its jurisdiction but set it at 110 percent of the FMR in two other counties because it is harder to find units in the latter and they are more expensive.

*The Payment Standard – What PHAs are Doing:* Over 90 percent of PHAs report using a uniform percentage of the FMR to determine payment standard. Most of the remainder adjust the percentage according to the bedroom size of the unit or the area where it is located.<sup>45</sup> Among PHAs with a uniform percentage, close to two-thirds have set the payment standard at exactly the FMR. Of the remaining, somewhat more have set the payment standard above the FMR than have set it below it, 20 percent vs. 15 percent, respectively (see Table IV-5).

Very large PHAs are most likely to set their payment standard at exactly the FMR. Medium-size PHAs are the ones most likely to set the payment standard above the FMR, and small PHAs are most likely to set the payment standard at the maximum of 110 percent of the FMR (see Table IV-5).

PHAs in the Northwest and the Midwest are most likely to set the payment standard at of the FMR, and those in the West are most likely to set the payment standard above the FMR (see Table IV-6).<sup>46</sup> Those in the South are most likely to set the payment standard below the FMR. These regional differences may reflect differences in the tightness of their housing markets or in how well the FMR reflects the part of the market that voucher holders attempt to access.

**Table IV-5. Payment Standard, by Program Size\***

PHA Size	90 Percent Of FMR		91-99 Percent Of FMR		100 Percent Of FMR		101-109 Percent Of FMR		110 Percent Of FMR	
	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs
Small	100	7.7	106	8.1	839	64.2	0	0.0	262	20.0
Medium	13	8.3	5	3.2	96	61.5	13	8.3	29	18.6
Large	6	10.9	3	5.5	40	72.7	0	0.0	6	10.9
Very Large	0	0.0	1	5.6	14	77.8	1	5.6	2	11.1
<b>Totals</b>	119	7.6	115	7.3	989	63.7	14	0.9	299	19.2

\*This table excludes PHAs that do not use a uniform percent of the FMR to adjust their payment standard.

<sup>45</sup> A small number of PHAs report uniform exception rents that lie outside of the 90-110% range.

<sup>46</sup> The Fair Market Rent (FMR) is the rent, including the cost of utilities, established by HUD for units of varying sizes by number of bedrooms that must be paid in the housing market area to rent privately owned, existing, decent, safe and sanitary rental housing of modest nature with suitable amenities. It is currently set at the 40<sup>th</sup> percentile rent of a metropolitan area.

Almost all PHAs that set their payment standards at the lower bound, i.e. 90 percent of the FMR, have waiting lists that are larger now than they were in the previous year. On the other hand, about one-half of PHAs that set their payment standard at the upper bound, 110 percent of the FMR, have waiting lists that remained largely unchanged (see Table IV-7).

**Payment Standards,  
By Units**

Among PHAs that use a uniform payment standard, over 70 percent of all Section 8 units are in those that set the standard at exactly 100 percent of FMR. Under fourteen percent are in those with payment standards less than 100 percent of FMR, and over 15 percent are in PHAs with payment standards above 100 percent of FMR.

**Table IV-6: Payment Standard, by Region**

Region	90 Percent Of FMR		91-99 Percent Of FMR		100 Percent Of FMR		101-109 Percent Of FMR		110 Percent Of FMR	
	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs
Northeast	2	0.6	44	13.5	189	58.2	2	0.6	88	27.1
Mid-Atlantic	0	0.0	16	14.4	74	66.6	2	1.8	19	17.1
Midwest	0	0.0	47	11.3	308	74.0	4	1.0	57	13.7
South	111	30.4	0	0.0	204	55.9	0	0.0	50	13.7
Southwest	1	0.7	4	2.8	95	65.9	0	0.0	44	30.5
West	3	2.5	1	0.8	67	57.2	6	5.1	40	34.2
Northwest	2	3.5	3	5.3	52	91.2	0	0.0	0	0.0

### Exception Payment Standards

Although PHAs can now set the payment standard as low as 90 percent and as high as 110 percent of the FMR without asking HUD’s permission; if they want to exceed that amount they can request exception payment standards. These can be as high as 120 percent of the FMR, or even higher. HUD Field Office approval is required for exception payment standards above 110 percent and up to 120 percent of the FMR, while the approval of the

**Table IV-7. PHA Payment Standard, By Waiting List Growth**

	Waiting List Larger Now		Waiting List Smaller Now		Waiting List About The Same	
	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs
<b>90 Percent of FMR</b>	114	97.4	3	2.6	0	0.0
<b>100 Percent of FMR</b>	144	15.9	372	41.1	389	43.0
<b>110 Percent of FMR</b>	83	27.5	69	23.2	147	49.3

Assistant Secretary for Public and Indian Housing is required for exception payment standards above 120 percent of the FMR. Exception payment standards may be approved by HUD for all or just designated parts of an FMR area.<sup>47</sup>

PHAs can petition for exception payment standards to obtain reasonable accommodations for people with disabilities, because voucher holders have trouble finding housing under the program within the term of the voucher, or to make sub-markets outside of high poverty areas available to participants.

*Exception Payment Standards –Issues and Approaches:* Some PHAs have decided to forego exception payment standards because PHAs wishing to use them must seek HUD approval. Some of these PHAs also claim that satisfying the criteria that HUD has established for justifying exception payment standards can be burdensome.<sup>48</sup> One very large Mid-Atlantic PHA reported that it was unable to get some of its areas declared as exception areas because HUD said that the areas the city had selected for comparability were too small and that the data were too old. The PHA believed that it had to conduct rent surveys for the appropriate sub-market areas for which they are requesting exception rents. A number of PHAs have expressed concern about the expense of conducting such rent surveys, as required by HUD criteria for granting exception payment standards in sub-markets. Some have concluded that petitioning for exception payment standards creates too much of a financial burden because there is no additional funding to pay for the surveys.<sup>49</sup>

Some PHAs indicate that they have decided against exception payment standards because they are located in jurisdictions where there is no need for the additional purchasing power. Thus, one small PHA in the Southwest sees no need to petition for exception payment standards because its participants can easily find apartments in any part of its jurisdiction. One Mid-Atlantic PHA does not use exception payment standards because it is in a jurisdiction where large apartment complexes have proliferated, and rents have been stable. One small PHA in the Northwest finds that not only are exception payment standards not necessary but landlords are clamoring to get voucher holders to rent their units.

Some agencies find that the flexible payment standard now gives them all the leverage they need with landlords whose units rent for up to 110 percent of the FMR. One large Mid-Atlantic PHA used to have exception payment standards set at 110 percent of the FMR when the payment standard was capped at the FMR. But now that their payment standard has been raised, exception rents are no longer required. Another large PHA in the Northeast that has also opted against exception rents finds that the new flexibility in the payment standard enables its participants to move into any neighborhood with affordable housing. When tenants are able to find units in all areas of a jurisdiction, PHAs are not in a position to make a case to HUD for sub-market exception payment standards.

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<sup>47</sup> Before the merger of the certificate and voucher programs, PHAs could approve gross rents from 101-110 percent of FMR for up to 20 percent of their units in the certificate program. Field Office approval was required for exception rents between 101-120 percent of FMR. In the case of vouchers, PHAs could set the initial payment standard at 80-100 percent of FMR. With Field Office approval, they could adopt a payment standard of up to 120 percent of FMR if HUD gave approval to a community-wide exception payment standard.

<sup>48</sup> One way that PHAs seek approval for exception rents is to provide statistically representative rental housing survey data and an appropriate program justification. However, more recently they are allowed to simply document low success rates.

<sup>49</sup> A December 17, 1999 notice to Field Office staff and PHA directors states that exception rent requests may be supported by current rental surveys.

The fact that voucher holders can assume rent burdens over 30 percent of their income makes exception payment standards unnecessary in some areas. Thus, one small Mid-Atlantic PHA cites the fact that its tenants now pay extra out of pocket when they want to rent units with somewhat higher rents. For this reason, the PHA no longer feels that it needs to use exception rents. Because participants in housing agencies that are enrolled in the Moving To Work demonstration are not required to limit their rent burden, these PHAs have even less reason for requesting exception payment standards.<sup>50</sup>

However, some PHAs in high-rent areas feel compelled to request exception payment standards to meet their lease-up requirements. One medium-size PHA in the West, that uses exception payment standards, does so because it wants to avoid penalties for being less than 100 percent leased up. A small PHA in the West located in a college town with an expensive housing market finds it necessary to use exception payment standards so that its units can get leased up.

Exception payment standards are reported to be especially useful for bringing certain non-traditional and otherwise unaffordable areas into reach. This helps PHAs meet SEMAP deconcentration goals. One large PHA in the Northwest opted for exception payment standards so that families could search in the non-impacted eastern part of the county where the PHA is located. One very large PHA in the Midwest petitioned for exception payment standards to reach the northern suburban areas within its jurisdiction, which are not concentrated.

Some jurisdictions reserve exception payment standards for residents with disabilities in situations where a high subsidy is needed as a reasonable accommodation to enable persons with disabilities to lease suitable units. The reason that one large Mid-Atlantic PHA maintains exception payment standards is so that its households with disabilities do not have to cover the higher costs associated with units that are appropriate to meet their needs.

*Exception payment standards – What PHAs are Doing:* Seventeen percent of PHAs are currently using exception rents, although most PHAs never had exception rents in their certificate or voucher program and are not planning on using them now. About one-fifth did have exception rents in the past but have decided not to use them any more (see Table IV-8).

Very large PHAs are the most likely to have had exception payment standards in the past and to continue using them. These PHAs tend to be in jurisdictions where the greatest poverty concentrations are reported to exist and where the additional leverage of exception payment standards may be required to achieve SEMAP goals. Medium-size PHAs are most

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<sup>50</sup> In order to test ways to give incentives to families to become economically self-sufficient, PHAs participating in Moving To Work are exempt not only from implementing rent burden requirements when participants first receive voucher assistance or move to a different unit, but from much of the Housing Act of 1937 and associated HUD regulations.

likely to have had exception rents once but to no longer use them. Small PHAs are least likely to have ever used exception rents (see Table IV-8).

**Table IV-8. PHA Use Of Exception Rents, By Program Size**

PHA Size	Had Them/ Still Use Them		Had Them/ Do Not Use Them Now		Never Had Them Do Not Use Them Now	
	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs
Small	183	14.5	265	21.0	818	64.6
Medium	32	17.7	61	33.7	88	48.6
Large	31	44.4	15	21.4	24	34.3
Very Large	10	50.0	3	15.0	7	35.0
<b>Totals</b>	256	16.7	344	22.3	937	60.8

By a large margin, PHAs in the Southwest are most likely to have used exception rents in the past and to be using them now (see Table IV-9). PHAs in the Midwest are least likely to have ever used exception rents. These differences may indicate differences in the rent structure of these regions

Among PHAs using exception payment standards, about one-third have a payment standard set at the maximum, 110 percent of FMR for units not covered by the exception rent standard, whereas among PHAs not using exception payment standards, only about one-sixth have set their regular payment standard at the maximum (see Table IV-10).

## Rent Reasonableness

**Table IV-9. PHA Use Of Exception Rents, By Region**

Region	Had Them/ Still Use Them		Had Them/ Do Not Use Them Now		Never Had Them Do Not Use Them Now	
	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs
Northeast	95	28.4	95	28.4	145	43.2
Mid-Atlantic	24	21.3	40	35.5	49	43.4
Midwest	9	2.1	57	13.6	352	84.3
South	13	3.0	129	30.3	284	66.7
Southwest	89	53.0	4	2.4	75	44.6
West	22	38.5	17	29.9	18	31.6
Northwest	4	22.2	2	11.1	12	66.7

Because Fair Market Rents are set for an entire metropolitan area, there can sometimes be considerable variation in the rent structure of various sub-markets. There may be some areas or sub-markets where prevailing rents are significantly below the FMR and some in which rents are significantly above the FMR. Furthermore, even within sub-market areas, there are rent differences associated with variations in the quality and amenities of units.

**Table IV-10. PHA Use Of Exception Payment Standards Rents, By Payment Standard Level**

	90 Percent Of FMR		91-99 Percent Of FMR		100 Percent Of FMR		101-109 Percent Of FMR		110 Percent Of FMR	
	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs
<b>Have Exception Rents</b>	1	0.4	16	6.6	143	59.8	1	0.4	77	32.2
<b>Do Not Have Exception Rents</b>	115	10.0	99	8.4	732	63.2	13	1.1	198	17.1

These variations have prompted HUD to require rent reasonableness determinations in order to ensure that rents are not excessive for particular sub-markets and particular units. A PHA may not approve an assisted tenancy until it determines that the initial rent as well as any rent increases, demanded by the owner, is reasonable in comparison to rents for other comparable, unassisted units in the sub-market.

Housing agencies are rated under SEMAP on whether they have an acceptable method for determining whether rents are reasonable. The method is expected to take a variety of factors into account, including the location, size, type, quality, and age of the unit. It should also take account of amenities, housing services, and maintenance and utilities provided by the owner. These factors offer a basis for making a cost comparison between the unit that is being offered for rent and other comparable units in the sub-market. On the basis of such comparisons, a PHA should be able to assure that it is not paying more rent than is reasonable. PHAs also have to determine rent reasonableness before any rent increase. The rent reasonableness determination is also required at the HAP contract anniversary if there is a five percent decrease in the published FMR that has been in effect during the prior 60 days.

*Rent Reasonableness – Issues and Approaches:* Although PHAs are required to do determinations of rent reasonableness, they can decide whom they want to conduct such determinations. They can use their own inspectors or other PHA staff or they can turn to contractors. Some PHAs have gone out of their way to recruit or contract for the service of experts, who are presumed to be able to provide them with more accurate rent reasonableness determinations. Thus, one medium-size Mid-Atlantic PHA has hired an outside firm that uses advanced appraisal methods, and another medium-size PHA in the Northeast is in the process of contracting with a real estate appraiser who plans to demarcate six districts of the city within which to find comparable units and compare rents.

PHAs also have a fair amount of latitude about the sources of information they use. Some PHAs have put considerable effort into acquiring what they consider to be the best

sources of information on comparables. Thus, one very large PHA in the Southwest will not use newspapers because rents listed in them are not necessarily those that the apartments end up being rented for. However, other PHAs do use newspapers as an information source. Because the information on comparables should reflect the appropriate sub-market, one large Mid-Atlantic PHA uses a system that allows it to gather information on comparables within a one-mile radius of the subject property. But sometimes an entire jurisdiction is used for finding comparables when there are no appropriate comparison units closer at hand. Rent reasonableness determination also depends on how current information is; in this regard, there is a lot of variation among PHAs. Thus, one medium-size Mid-Atlantic PHA updates its information every couple of years, whereas a large PHA in the South updates its information every three to six months.

Once all of the information is gathered, the particular methodology used can also affect rent reasonableness determinations. A number of PHAs have begun to use a point system under which they assign a value or adopt a range of values for each feature of a unit. In this way, they are able to use units as “comparables” that do not match the subject property in every respect. Rents can be adjusted up or down depending upon the features found in the unit to be subsidized. Thus, one medium-size PHA in the South uses a formula provided to them by consultants that factors in all of the criteria outlined by HUD.

Some PHAs do not assign a high priority to rent reasonableness determinations. They find that the time and effort required to comply with rent reasonableness requirements competes with many other tasks that are part of their operations. PHAs in areas where the FMR is considered too low also do not have much of an incentive to put a great amount of effort into their rent reasonableness determinations because preventing rent gouging in a jurisdiction where FMRs are on the low side seems less pressing.

*Rent Reasonableness – What PHAs Are Doing:* Inspectors are the ones reported to be conducting rent reasonableness determinations most often, followed by other PHA staff. Some PHAs hire staff especially to do rent reasonableness determinations. Only a very small percentage of PHAs hire contractors to perform the rent reasonableness determinations (see Table IV-11).

Small PHAs are most likely to rely on their inspectors and on their other staff to do rent reasonableness determinations, and they never turn the rent reasonableness determination completely over to contractors. Large PHAs are most likely to turn to contractors (see Table IV-11). In the South and the Mid-West, virtually all PHAs use inspectors and staff to make rent reasonableness determinations, and they hardly ever make use of contractors. The Northwest is the region where PHAs are most likely to use contractors. About one-quarter of them do.

Table IV-11. Who Does The Rent Reasonableness Determination, By Program Size \*

PHA Size	HQS Inspectors Only		Other Staff Only		Other Staff And HQS Inspectors		Contractor Only		Other Staff And Contractors	
	No. Of PHAs	Pct. Of PHAs	No. Of PHAs	Pct. Of PHAs	No. Of PHAs	Pct. Of PHAs	No. Of PHAs	Pct. Of PHAs	No. Of PHAs	Pct. Of PHAs
Small	617	45.2	510	36.1	210	15.4	0	0.0	44	3.2
Medium	61	32.6	44	23.5	59	31.6	14	7.5	9	4.8
Large	20	27.8	15	20.8	17	23.6	11	15.3	9	12.5
Very Large	7	35.0	7	35.0	2	10.0	2	10.0	1	5.0
<b>Totals</b>	<b>705</b>	<b>42.9</b>	<b>576</b>	<b>34.1</b>	<b>288</b>	<b>17.5</b>	<b>28</b>	<b>1.7</b>	<b>62</b>	<b>3.8</b>

\* Five percent of very large PHAs used sources other than those identified here to perform rent reasonableness determinations.

There are many sources of information that PHAs can use for rent reasonableness determinations. These include newspapers, the Internet, information on rents already in a PHA database, market surveys performed by PHA staff, market surveys and data bases provided by real estate professionals and other contractors, and owner-provided information. Information sources that are more comprehensive require a greater level of effort to gather. Market surveys conducted expressly for the purpose of finding comparables, including PHA conducted surveys as well as surveys and databases provided by real estate professionals, fall into this category.

Newspapers and the Internet are obviously less expensive information sources but they are, in many cases, less complete, as they are likely to capture only part of the appropriate market. To the extent that they were gathered for the purpose of ensuring that owners charge reasonable rents, PHA-conducted surveys or surveys contracted for from real estate professionals would be less likely to have an upward bias. On the other hand, comparables gathered from newspapers and those provided by landlords are more likely to carry an upward bias. Lower cost units often pass from tenant to tenant via word of mouth or by the use of signs posted on the property without the need for newspaper advertising. About two-thirds of PHAs use information sources, including their own market surveys, and surveys and databases of real estate professionals, that are generally more comprehensive in terms of identifying appropriate comparables (see table IV-12).

In general, very large PHAs are most likely to use surveys and real estate data bases (about 90 percent of all very large PHAs do so), while medium-sized PHAs are less than 50-50 to rely upon such information (see Table IV-12).

The Northwest and the Southwest are the two regions where PHAs are most likely to use surveys and real estate data bases as the source of information for rent reasonableness determinations (86% and 91% of PHAs, respectively). PHAs in the Mid-Atlantic region are the least likely to use such information sources (25% of PHAs).

The process of setting the payment standard is different from that of determining rent reasonableness, although both processes are aimed at identifying rents that are appropriate for a market. PHAs where the payment standard is set at the upper bound, 110 percent, are less likely to use sources of information for rent reasonableness that were compiled specifically for the purpose of finding appropriate comparables, whereas PHAs where the payment standard is set at the lower bound, 90 percent, or varies by bedroom size, area, or quality of the unit, overwhelmingly draw from such sources (see Table IV-13).

**Table IV-12. Information Sources Used, By Program Size**

PHA Size	Use Of Surveys And Databases		Use Of Other Information Sources	
	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs
Small	892	70.2	378	29.8
Medium	71	40.3	105	59.7
Large	57	79.2	15	20.8
Very Large	19	90.5	2	9.5
<b>Totals</b>	<b>1,039</b>	<b>67.5</b>	<b>500</b>	<b>32.5</b>

**Table IV-13. PHA Payment Standard, By The Use Of Surveys And Databases**

	Number Of PHAs Using Source	Percent Of PHAs Using Source
<b>Varies by Bedroom Size, area, or quality</b>	83	100.0
<b>90 Percent of FMR</b>	116	93.1
<b>91-99 Percent of FMR</b>	50	73.5
<b>100 Percent of FMR</b>	736	75.5
<b>101-109 Percent of FMR</b>	3	25.0
<b>110 Percent of FMR</b>	218	37.0

## **V. EVALUATING IMPACTS/NEXT STEPS**

We do not yet know the impacts of the policies and procedures adopted by PHAs and reported in this study. Impacts may be associated with tenant selection, extending housing opportunities, and subsidy setting, and might be expected to reveal themselves through changes in tenant characteristics, lease-up rates, neighborhood location, subsidy levels, etc. It is not easy to attribute such changes to particular discretionary policies that housing agencies have adopted in the wake of QHWRA. For one thing, policies can counterbalance one another. Furthermore, it may be too early to gauge the impact of newly adopted policies. In addition, QHWRA is not the only cause of changes in tenant characteristics, lease-up rates, etc. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 that implemented welfare reform has been another important influence during this period.

Bearing these caveats in mind, it is, nonetheless, possible to periodically examine HUD's Multifamily Tenant Characteristics System (MTCS) that contains data on individual families to see whether there are changes in such items as household income and the number of working households. It is also possible to link MTCS with Census data to see whether there are changes in patterns of concentration. The Office of Policy Development and Research (PD&R) has several efforts, already underway or soon to be implemented, that will examine impacts of the discretionary authority wielded by PHAs in the Section 8 program.



## **APPENDIX A**

### **THE SAMPLING FRAME**

The timeframe allocated for this study dictated that only a fraction of all the PHAs operating tenant-based Section 8 programs could participate. Consequently, the universe of almost 2,600 PHAs from which participating PHAs would be selected needed to be reduced. This was accomplished by eliminating from the sampling universe all PHAs having fewer than 100 Section 8 units. The result is a sampling universe of 1,786 PHAs, but one still encompassing approximately 98 percent of all units.

The decision was also made to use a stratified random sample, instead of a simple random sample, because the former was considered more appropriate to this study. Many observers have suggested that PHAs implement policy at least partially on the basis of size, measured in terms of the number of Section 8 units allocated. Regional differences in policy making have also been suggested. In order to examine PHA use of discretionary policy, therefore, it was determined that a stratified sample plan that ensured a distribution of PHAs along the dimensions of size and region would be developed. In addition, a stratified random sample would ensure representation of all PHAs, would not be over-weighted by very large PHAs or very small PHAs, and would produce summary results that are valid for all tenant-based Section 8 programs. The first stratum, PHA size, is measured in terms of the number of Section 8 units allocated, and then grouped into four size groups: small (PHAs between 100 and 999 units), medium (PHAs containing between 1,000 and 2,499 units), large (those having between 2,500 and 5,999 units), and very large (those with 6,000 or more units). The second stratum, included seven regions: the Northeast, the Mid-Atlantic, the South, the Midwest, the Southwest, the West, and the Northwest.

As noted earlier, the decision about sample size was partly dictated by the timeframe available for this study. Keeping this in mind, the preliminary decision was made to keep the sample size to 200 or fewer PHAs. The decision was made to sample very large PHAs with certainty, and this accounted for 22 PHAs. It was then decided to try to include seven PHAs within each of the cells formed by the coordinates of the three remaining program size categories and the seven region categories. Allowing for seven observations within each cell formed by the size and region coordinates made it possible to say something about the behavior of PHAs within each cell. In some cases, there were fewer than seven PHAs within each of these cells produced by these coordinates, and in other cases, there were a few more. Accounting for these differences, 145 PHAs were selected in the 21 cells formed by the region and size coordinates. As a result of these decisions, the final sample included 167. Table A-1 provides the universe and sample sizes considered for this paper. The table also shows the weights used for the analysis. For most purposes, PHA weights were used; in a few cases these were supplemented by unit weights (see Table A-2).

**Table A-1. Counts Of All And Participating PHAs, By PHA Size And Region \***

	<b>Small PHAs</b>	<b>Medium PHAs</b>	<b>Large PHAs</b>	<b>Very Large PHAs</b>	<b>Total</b>
<b>Northeast</b>					
All PHAs	306	19	9	3	337
Sample PHAs	7	8	7	3	25
Weight	43.71	2.38	1.29	1.00	
<b>Mid-Atlantic</b>					
All PHAs	107	14	6	2	129
Sample PHAs	7	7	5	2	21
Weight	15.29	2.00	1.20	1.00	
<b>Midwest</b>					
All PHAs	377	29	16	3	425
Sample PHAs	8	7	8	3	26
Weight	47.13	4.14	2.00	1.00	
<b>South</b>					
All PHAs	351	67	13	3	434
Sample PHAs	7	8	6	3	24
Weight	50.14	8.38	2.17	1.00	
<b>Southwest</b>					
All PHAs	140	18	7	3	168
Sample PHAs	7	7	7	3	24
Weight	20.00	2.57	1.00	1.00	
<b>West</b>					
All PHAs	76	39	17	8	140
Sample PHAs	7	8	6	8	29
Weight	10.86	4.88	2.83	1.00	
<b>Northwest</b>					
All PHAs	54	14	4	0	72
Sample PHAs	7	7	4	0	18
Weight	7.71	2.00	1.00	--	
<b>Total</b>					
All PHAs	1,411	200	72	22	1,705
Sample PHAs	50	52	43	22	167

\* The data reflect the exclusion of all PHAs with fewer than 100 units of Section 8 assistance, the exclusion of all State agencies regardless of size, the inclusion with certainty of all very large PHAs, and an approximately even split of all remaining PHAs in order to achieve the desired sample size. Data for all PHAs are from MTCS.

Although the basic sample size for this study is 167 public housing agencies, there are a number of instances for which the data covering fewer than 167 exist. One major reason for this is that some of the PHA officials who were contacted either did not know the answer to a specific question or preferred not to venture a response without research. Another reason for reduced sample sizes resulted from the fact that PHAs that had not yet made basic policy decisions in some program areas were obviously not in a position to elaborate these policies.

**Table A-2. Counts Of All And Participating PHA Section 8 Units,  
By PHA Size And Region \***

	Small PHAs	Medium PHAs	Large PHAs	Very Large PHAs	Total Units
<b>Northeast</b>					
All PHAs	93,329	27,879	27,217	96,957	245,382
Sample PHAs	2,283	12,069	20,311	96,957	131,620
Weight	40.88	2.31	1.34	1.00	
<b>Mid-Atlantic</b>					
All PHAs	44,684	19,458	26,006	18,962	109,110
Sample PHAs	3,569	9,400	21,316	18,962	53,247
Weight	12.52	2.07	1.22	1.00	
<b>Midwest</b>					
All PHAs	126,520	43,425	66,673	43,220	279,838
Sample PHAs	2,557	9,650	32,209	43,220	87,636
Weight	49.48	4.50	2.07	1.00	
<b>South</b>					
All PHAs	118,470	97,990	42,305	27,018	285,783
Sample PHAs	1,932	11,806	21,366	27,018	62,122
Weight	61.32	8.30	1.98	1.00	
<b>Southwest</b>					
All PHAs	52,695	27,387	22,420	28,354	130,856
Sample PHAs	2,934	10,493	22,420	28,354	64,201
Weight	17.96	2.61	1.00	1.00	
<b>West</b>					
All PHAs	34,621	58,878	67,826	94,244	255,569
Sample PHAs	3,358	11,613	22,992	94,244	132,207
Weight	10.31	5.07	2.95	1.00	
<b>Northwest</b>					
All PHAs	24,278	22,061	15,170	0	61,509
Sample PHAs	2,561	10,261	15,170	0	27,992
Weight	9.48	2.15	1.00	--	
<b>Total Units</b>					
All PHAs	494,597	297,078	267,617	308,755	1,368,047
Sample PHAs	19,194	75,292	155,784	308,755	559,025

\* The data reflect the exclusion of all PHAs with fewer than 100 units of Section 8 assistance, the exclusion of all State agencies regardless of size, the inclusion with certainty of all very large PHAs, and an approximately even split of all remaining PHAs in order to achieve the desired sample size. Data for all PHAs are from MTCS.



## APPENDIX B POVERTY CONCENTRATIONS

Tables B-1 and B-2 show the existence of poverty by program size and region. The percentages refer only to PHAs reporting a poverty concentration, and these concentrations have not been independently verified. Discussions relating to the policies for encouraging participants to search outside of concentrated areas and for encouraging landlords outside of concentrated areas to participate in the program were confined to those PHAs reporting the existence of such concentrations within their jurisdiction.

**Table B-1. The Existence Of Poverty Concentration, By Program Size \***

PHA Size	Jurisdiction Has Poverty Concentration		Jurisdiction Does Not Have Poverty Concentration	
	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs
Small	681	52.4	619	47.6
Medium	146	73.7	52	26.3
Large	61	84.7	11	15.3
Very Large	18	85.7	3	14.3
<b>Totals</b>	<b>906</b>	<b>56.9</b>	<b>685</b>	<b>43.1</b>

\* These percentages refer only to PHAs reporting a concentration problem.

**Table B-2. The Existence Of Poverty Concentration, By Region \***

Region	Jurisdiction Has Poverty Concentration		Jurisdiction Does Not Have Poverty Concentration	
	Number Of PHAs	Percent Of PHAs	Number Of PHAs	Percent Of PHAs
Northeast	247	73.3	90	26.7
Mid-Atlantic	47	42.0	65	58.0
Midwest	130	34.4	248	65.6
South	281	64.7	153	35.3
Southwest	119	70.8	49	9.2
West	60	56.6	46	43.4
Northwest	21	37.5	35	62.5

\* These percentages refer only to PHAs reporting a concentration problem.

