

**HUD HOUSING CERTIFICATE FUND
NEGOTIATED RULEMAKING ADVISORY COMMITTEE
AUGUST 19-20, 1999 MEETING SUMMARY**

Thursday, August 19

I. Introduction and Agenda Review

CBI facilitator Larry Susskind briefly reviewed the agenda and goals for the two-day meeting, and reviewed the Committee's progress in achieving the goals the Committee had set at the outset of the Reg Neg process.

There are 8 primary issues for which the Committee created proposals. The eight are detailed in the Final Draft Allocation System Proposal and will be finalized in the Committee's Report. The Committee Report will be drafted by CBI, reviewed and edited by the Committee, and distributed to all members of the Committee and the public.

HUD staff will use the Committee's proposals as the basis for a draft Regulation which reflects the goals of the proposals. Finally, HUD staff are in the process of drafting a Notice which will contain detailed instructions on how the Regulation will be implemented. (attached)

II. Review of Allocation System Proposal

The committee reviewed the Final Draft Allocation System Proposal (Revised July 29, 1999) item by item, taking the time to discuss concerns and issues on a point-by-point basis. Several adjustments to wording and procedures were made by the group, and are reflected in the ***Final Draft Allocation System Proposal*** - attached.

Item 2: Resolution of Baseline Issues: This item was changed to clarify that HUD will notify each PHA of the number of baseline units that HUD has determined it has, and the procedure by which HUD arrived at that number.

Item 3: Budget Increment Renewal and Adjustment: The Committee agreed to change the language of this item to clarify that the Regulation will apply to S.8 budget increments that are renewed after the Regulation comes into effect. The process for HUD review of PHA requests for changes in budget authority was also changed to include review of HUD management information system data.

Item 4: Improvement of Annual Adjustment Factors and Procedures: Several Committee members urged HUD to name a stakeholder advisory body to work with it on identifying and pilot testing more accurate annual adjustment factors. A HUD representative reported that HUD intends to facilitate on ongoing stakeholder involvement on a wide range of issues, including some brought up in other ongoing

HUD Reg Negs, but wants the flexibility to select stakeholders for these processes who have not been involved in the Reg Negs.

HUD representatives said that on the specific issue of annual adjustment factors, HUD is committed to continued research, including statistical and financial analyses by expert consultants, and is open to forming of an advisory group including PHA administrators and other stakeholders. This advisory group would have input into the creation of a "representative sample" group for testing possible annual adjustment factors and adjustment procedures.

The Committee agreed to change the language of this item to specify that HUD will set up an advisory body on adjustment factors, and that its mandate will be to advise on a research strategy to be implemented by HUD consultants.

Item 5: Use and Replenishment of PHA Reserves

1. Access to reserves for "high-performing" PHAs: Several Committee members felt that high-performing PHAs (as defined by SEMAP score and possibly other criteria) should have greater flexibility to use reserves than other non-troubled PHAs. Others felt that any PHA that needed to use more than 50% of its reserves should be reviewed by HUD. The Committee agreed to change the language of this item to indicate that all PHAs that want to use more than 50% of their reserves will be reviewed by HUD before approval, and that HUD may grant more flexibility to high-performing PHAs.

2. Definition of "high performance": The Committee discussed whether criteria other than SEMAP score should be used to define "high-performance" for the purposes of this item. Facilitator David Fairman presented the suggestion of an absent Committee member to make outstanding service to disabled populations (e.g. via funding access improvements under Section 504, assistance to disabled persons under deconcentration initiatives, etc.) a criterion for defining high performance.

Many Committee members felt that the definition of performance should not depend on level of service to particular groups, and that including all special needs groups in the definition of performance would become unduly complex to administer. The Committee agreed that its own proposals should rely on the SEMAP definition of performance, and that suggestions for changing the performance scoring for SEMAP should be better pursued through HUD's ongoing process of pilot testing and refining the SEMAP system.

3. Clarification of circumstances under which PHAs can have access to reserves: The Committee discussed the draft requirement in item 5a that PHA's use their reserves to cover "unanticipated" cost increases. In response to questions from a Committee member, HUD representatives indicated that HUD could not commit to providing funds to all PHAs that can anticipate a legitimate need for funding above and beyond the level provided by the HUD's annual budget renewal. Therefore, some PHAs might need to

use their reserves to cover anticipated as well as unanticipated costs. The Committee agreed to strike the word "unanticipated" from this section.

The Committee also agreed to change the wording of items 5b and 5c to allow PHAs to use reserves to allow gradual, voluntary attrition back to baseline within or across fiscal years, and to allow PHAs flexibility on how rapidly to replenish reserves used for these purposes. The Committee decided to strike item 5d, authorizing the use of reserves to meet deconcentration goals, because the revised item 5a now provides enough flexibility for PHAs to use reserves for this and other program goals.

Item 6: Recycling of Reserve Funds: HUD staff suggested that the use of the term "recapture and recycling" to describe the proposed process is confusing, because "recapture" is being used by HUD in other contexts to describe an annual Departmental and Congressional budgeting process that goes beyond the S.8 program. The Committee agreed to strike the word "recapture" and only use the word "recycle" to describe the process by which HUD moves reserves above the 2-month level to PHAs which have depleted their reserves and qualify for replenishment by HUD. HUD representatives also indicated that it may take HUD some time to automate the recycling process, and the Committee agreed to change wording to reflect this fact. The Committee also added wording to emphasize the need for the recycling criteria to be transparent as well as simple and fair.

Item 7: Reallocation of Budget Authority: The Committee discussed the criteria that HUD should use to put a PHA on notice that it is in danger of having some of its budget authority reallocated. Several Committee members pointed out that a PHA could fall below 90% lease-up rate for reasons that have nothing to do with poor management (e.g. FMR set too low). The Committee agreed that two criteria should trigger a HUD notice: lease-up rate below 90% of allocated units and use of less than 90% of budget authority. The Committee also clarified that several types of units awarded incrementally (e.g. litigation, HOPE 6) should be excluded from HUD's calculation of the PHA's allocated units.

The Committee discussed the possibility of giving the PHA something more than one fiscal year to meet the 90% lease-up and budget utilization thresholds. HUD representatives emphasized that the Regulation itself will put under-leasing and under-utilizing PHAs on notice that they need to improve performance, that the procedure for notifying not only the PHA but also local government officials should trigger action, and that PHAs have a number of options available to them within the fiscal year to achieve the 90% thresholds.

The Committee also discussed the criteria that HUD should use to decide how to reallocate budget authority. Several Committee members were uncomfortable with the proposal to give priority to communities served by under-utilizing PHAs. They suggested that HUD should use the reallocation process to move funds to areas where

they were needed most, using a national-level needs analysis. Other Committee members felt strongly that HUD needs to make a distinction between PHAs that have management problems and the communities whose needs they may be failing to meet.

Committee members agreed to eliminate any specific priority for PHAs that had lost funding in the past. They agreed to emphasize two criteria: demonstrated need and PHA performance. They also agreed to change the wording of the criterion giving priority to communities whose PHAs had lost funding to indicate that these communities must demonstrate substantial unmet demand to have priority.

Item 8: Administration of the Allocation System: The Committee made minor wording changes to several items in this section. Discussion focused on the proposal to reward high-performing PHAs with the ability to re-use their forfeited FSS funds. Although many felt this was a worthwhile idea, several Committee members pointed out that the proposal is not directly related to renewal funding. The Committee agreed to strike this proposal from its draft, and to request HUD representatives to take it up as a separate programmatic proposal.

III. Discussion of Payment Standard Issue

Facilitator Larry Susskind explained to the group that HUD has been conducting an internal review of the Committee's proposed allocation system, in order to let the Committee know if there were any additional concerns that HUD feels the Committee needs to address. During this review, some HUD staff expressed concern about the flexibility that PHAs now have to set their payment standards between 90% and 110% of fair market rent (FMR). In broad terms, some HUD staff feel that PHAs should be asked to choose between assisting more families at a lower payment standard and assisting fewer families at a higher standard, in order to keep the program budget from growing too fast.

HUD representative Robert Dalzell presented several charts (attached) to show how increased payment standard flexibility could affect individual PHA budgets and the S.8 program budget overall. Under an actual cost per unit system such as the one proposed by the Committee, PHAs that raised their payment standard would increase their actual cost per unit, and their future year renewal budgets would increase accordingly. In contrast, PHAs that reduce the payment standard would decrease their actual cost per unit, and their future year renewal budgets would decrease accordingly.

HUD staff have been discussing ways that PHAs could maintain revenue neutrality in their use of payment standard flexibility. For example, if a PHA decided to increase payment standards to 110% of FMR, then that PHA would need to cut back on the number of families served in order not to increase its budget authorization for the following fiscal year. In contrast, if a PHA decided to reduce its payment standard, that PHA might not necessarily lose budget authority for the following fiscal year.

A Committee member commented that it is not clear why revenue neutrality should be a goal of the allocation system. The Committee discussed the question of whether the QHWRRA requires HUD to limit the growth of the S.8 program budget to the level of inflation (as defined by annual adjustment factors), or whether the law's drafters were open to the possibility that the program budget could grow over time to meet new program goals (e.g. deconcentration, income targeting, access for the disabled, etc.). Most Committee members interpreted the law and the legislative history as not having set a budgetary cap on the program.

HUD representatives commented that whatever the intent of the law's drafters, there were likely to be budgetary constraints on the growth of the S.8 program. In broad terms, HUD is concerned that the S.8 program budget should not grow quickly, because rapid growth may lead Congress to challenge the program's management and its effectiveness.

A number of Committee members made strong statements in favor of allowing PHAs to focus on meeting program goals within the program management guidelines established by HUD, rather than creating additional restrictions on PHAs with regard to payment standard strategy. They felt that if necessary, HUD and other S.8 program stakeholders could use the program goals established by QHWRRA and by HUD and the program's actual performance to explain growth in the program budget to Congress.

Several Committee members spoke specifically to the question of why PHAs should have flexibility to raise their payment standards. They noted two main reasons why a PHA might increase payment standards:

1. to promote deconcentration of low-income households into higher-rent areas;
2. to ensure lease-up in markets whose FMRs have been set too low.

The first reason is explicitly authorized by QWHRA and by HUD. The second is a reflection of the imperfect process of setting FMRs. Currently HUD uses exception rents to deal with the problem of low FMRs within a PHA's service area, and HUD also has a process by which PHAs can request a change in their FMR. However, unless and until there is a fundamental change in the way FMRs are calculated, individual PHAs may need to increase payment standards as a short-term response to the problem of low FMRs.

Other Committee members added that Section 8 is market-driven, with prohibitions against, for instance, steering families to non-profit landlords. They argued that if payment standards need to rise because FMRs are not keeping pace with actual market rents, then the problem lies with FMRs, not with the market, and PHAs should not be penalized for adapting to market conditions.

Committee members also noted that historically, not all PHAs have set payment standards at 100% of FMR for all neighborhoods they serve. A substantial number of PHAs, including several represented on the Committee, have set payment standards significantly lower than 100% for low-rent neighborhoods, in order to make most efficient use of program resources. Based on historical experience, there is no reason to believe that most PHAs will jump to 110% of FMR for all neighborhoods they serve simply because they have the option to do so.

Other Committee members added that the S.8 program's income targeting and deconcentration goals are far more likely to have a large impact on program costs than a PHA's use of payment standard flexibility.

Committee members then discussed ways that HUD could determine whether a PHA was making good use of its discretion to set payment standards above 100% of FMR. A Committee member commented that for HUD to make accurate judgments on how payment standard flexibility is being used, it would need to track rents for each PHA by bedroom size and by neighborhood—a very substantial data and administrative burden.

Committee members suggested two less data-intensive “warning signs” that HUD could look at:

- inadequate review of rent reasonableness (i.e. FMRs set above prevailing market rents for particular neighborhoods);
- large majority of program participants paying the minimum income share (i.e. paying no more than 30 percent of income).

The Committee also discussed briefly the situation of PHAs who choose to set payment standards low in order to serve more families. Under an actual cost per unit system, these PHAs will lose funding in future years because their cost per unit will be multiplied by their baseline number of units, rather than their actual number of units. One option would be to guarantee these PHAs a “floor” level of budget authority, perhaps based on a calculation of what their costs would have been if their payment standard had been 95% or 100 % of FMR.

IV. Public Comment and Facilitator Summary of Discussion

An OMB observer commented that the challenge for HUD is to make sure that it can explain clearly to Congress why the budget is growing, ideally by making specific references to program goals and showing how costs have needed to grow to meet those goals. In the past, HUD has not always been able to explain the program's budget in a way that satisfied Congress.

Facilitator Larry Susskind summarized range of views on the payment standard issue:

- Congress was not concerned about the rate of growth of S.8 program costs, and therefore there is no need to address this issue;
- Congress might have a concern if costs grow fast, but based on past experience with payment standards, costs are not likely to grow fast because of increased payment standard flexibility;
- Congress might have a concern about costs and costs might grow fast, but income targeting and deconcentration policies are more likely to drive up costs than payment standard flexibility;
- there are options available to HUD to review individual PHAs' use of payment standard flexibility, if the Committee decides that does need to address this issue.

The facilitators committed to draft additional language on payment standard flexibility to address Committee members' concerns, and invited Committee members to suggest language on this issue.

Friday, August 20

V. Payment Standard Issue Continued

The Committee began the day by reviewing two additional proposals drafted by the facilitators in response to the previous day's discussion of payment standards and suggestions from Committee members.

The first proposal was to protect PHAs which chose to use payment standards below 100% of FMR by allowing them to renew their previous year's budget authority at the previous year's level, i.e. without taking into account their lower actual cost per unit in the renewal calculation.

A number of Committee members, both PHA representatives and HUD staff, raised concerns about this proposal. Some felt that the proposal would essentially allow PHAs to choose between a "dollar-based" and "unit-based" renewal calculation each year, and therefore would allow PHAs to "game the system" by choosing the calculation that was more advantageous to them.

Others were concerned that the proposal might give PHAs a perverse incentive to reduce their payment standards in order to protect their budgets. They suggested that HUD should only allow PHAs to renew at the level of the previous year's budget if they could demonstrate (through SEMAP or other evaluative measures) that they were

meeting deconcentration, welfare-to-work, income targeting, mobility, and other key program goals.

HUD staff raised concerns about the administrative problems that this option might create. For instance, HUD would have to review both the year-end statement and the PHA's use of payment standards in order to make the budget renewal calculation. In addition, PHAs which chose this option would need to rely on the annual adjustment factors for any upward budget adjustment, because their actual costs per unit would not be taken into account. Given the uncertainty about the accuracy of these adjustment figures, and the fact that the completion of the 2000 census may lead to dramatic changes in AAFs across the country, the proposal seemed to many Committee members to put PHA budgets at risk.

Several Committee members spoke in favor of the proposal to "hold harmless" PHAs that chose a low payment standard. They emphasized that serving more families at lower subsidy per family is a legitimate S.8 program management strategy, and that the current allocation system creates a disincentive for PHAs to use this strategy.

After further discussion the Committee decided to strike this proposal, mainly because of the uncertainty about its budget impact for HUD and for PHAs, its administrative complexity and the difficulty of explaining it to Congress.

The committee then discussed the second proposal on payment standards. This proposal was intended to reduce the incentives for PHAs to raise payment standards above 100% of FMR, by prohibiting the use of reserves to support payment standards over 100% of FMR.

Many Committee members had strong concerns about this proposal. Several argued that given new program goals and management options (income targeting, deconcentration, payment standard flexibility etc.), PHAs must be allowed to use their reserves for any legitimate program purpose within the management guidelines set by HUD.

The Committee also discussed the administrative difficulty of tracking how reserves were being used, since the same reserve account could be tapped for many purposes. It might be impossible to show a direct connection between a PHA's choice of payment standards and its use of reserves. A Committee member also pointed out that this proposal would create inequities between PHAs which were granted exception rents by HUD and those which were not. Those with authorized exception rents would be allowed to use reserves, while those without authorization would not.

At the request of a HUD observer, PHA members of the Committee then discussed how they would respond to increased payment standard flexibility. Virtually all PHA Committee members said that they would not increase payment standards to 110% of

FMR across the board. Most said that they currently have different payment standards for central city, suburban and rural neighborhoods, and would expect to maintain or even increase the range of payment standards to meet income targeting and deconcentration goals. None expected that they would substantially decrease payment standards.

The Committee decided that restricting access to reserves was not a good way to address the payment standard issue. Discussion then returned to options for HUD to review PHAs' use of payment standards and their overall rate of cost increase as a way to control the growth in the S.8 program budget.

Several Committee members suggested that HUD could examine PHAs whose costs rose substantially. If the jump was due to poor management decisions or not following rent reasonableness guidelines, then HUD could make an effort to help the PHA correct these problems. Many felt that HUD should have the option to limit budget renewals to PHAs which had unexplainable and unjustifiable increases in payment standards.

A small group of Committee members met with the facilitation team to draft a proposal for HUD review of the rate of increase in PHAs' actual cost per unit. They developed the following language, which has been inserted into the current (August 26, 1999) draft Allocation System Proposal:

If a PHA's ACPU increases by more than x% above its AAF;
and
more than X% of the PHA's units are under contract for an amount calculated from payment standards higher than 100% of FMR;
and
fewer than X% of the PHA's S.8 families are paying more than 30% of income for family share towards rent;

then prior to approving the next FY budget for the PHA, HUD will review

- 1) the PHA's method for setting the payment standard(s);
- 2) the PHA's rent reasonableness review practices;
- 3) the PHA's strategy for achieving deconcentration goals;
- 4) the PHA's admissions preferences as they affect the income profile of new tenants;
- 5) the failure (turnback) rate for voucher holders seeking housing;
- 6) HUD's FMR calculation for the PHA's area and its reasonableness.

Based on this review, HUD will have the option to require the PHA to change its management practices and policies as a condition for budget approval (as it does in any case under the ACC).

If the increase in the PHA's ACPU cannot be justified in terms of good management practices, HUD will also have the option to adjust the PHA's budget to reflect per unit costs below the ACPU submitted by the PHA. HUD will also have the option to restrict the PHA's access to its reserves.

An OMB observer spoke to the Committee for a few minutes, reiterating OMB's and HUD's concerns that costs might rise too high too quickly, arousing Congressional scrutiny and ultimately reducing the amount of money appropriated to HUD programs and Section 8 in particular. He acknowledged that he did not have a solution to the problem, but hoped that the Committee's proposals would help him and his staff to think through some realistic procedures for keeping cost increases at a level which would not jeopardize Congressional funding.

VI. Draft HUD Budget Renewal Regulation

Facilitator Larry Susskind opened discussion on HUD's draft regulation by inviting committee members to respond to concerns or problems on a section-by-section basis. Several Committee members asked for clarification of examples and wording, and HUD staff members noted comments and suggestions for editing and refining the regulation.

An important discussion revealed that synchronized increment renewals will mean that the next year's AAF will be applied halfway through a PHAs fiscal year. Several Committee members pointed out that it would be more accurate to predict a PHAs costs using the AAF X 1.5. HUD staff understood the point, but pointed out that in the case where PHAs costs go down, it may negatively affect that PHAs budget. HUD staff agreed to look into the feasibility of applying the value of the AAF 1.5 times to increase accuracy and decrease underfunding.

VII. Draft Notice – Verifying Unit Allocations

Although the entire Draft Notice was not finished or distributed to the committee, one section titled Verifying Unit Allocations was distributed. Although still in draft form, one committee member pointed out that the procedures affecting recycling and reallocation of budget authority correctly belongs in the regulation itself, and not just in the Notice. A HUD representative concurred, and agreed to put that section into the next Draft Regulation.

Another committee member asked if HUD had considered having the final appeals process for baseline determination decided by a non-HUD decision maker, such as an Administrative Law Judge. The committee and HUD staff agreed that the FMC and ultimately the Assistant Secretary were a more appropriate decision-maker in the case.

Public Comment and Adjournment

There was no public comment. The meeting then adjourned.

LIST OF ATTENDEES
HUD HOUSING CERTIFICATE FUND
NEGOTIATED RULEMAKING ADVISORY COMMITTEE
AUGUST 19-20, 1999 MEETING

COMMITTEE MEMBERS, ALTERNATES: HUD STAFF, FACILITATORS AND
TECHNICAL CONTRACTORS:

Gloria Cousar
Steve Renahan
Gary Leblanc
Cheryl Wegner
Barbara Sard
Glen Redding
Paul Dettman
Robert Cohen
Betty Bjork
Roy Ziegler
George Pilla
John Pettis
Booker Jones
Gary Coates
Mary James
Wanda Montgomery
Nancy Lynchchild
Linda Campbell
Larry Valencic
Janet Barry
Virgil Tinklenberg
Ms. Helen Lang
Marlene Kwitowski
Ophelia Basgal
Joe Wheeler

Jerry Benoit (HUD)
Deborah Hernandez (HUD)
Bill Gilliland (HUD)
Sau Lai Chung (HUD)
Mary Conway (HUD)
Robert Dalzell (HUD)
Bernice Unland (HUD)
Rod (HUD)
Louise (HUD)

Larry Susskind (CBI)
David Fairman (CBI)
Tom Fee (CBI)
Kelly Davenport (CBI)

Shawn Pride (Andersen)
Heather Rupert (Andersen)
Amanda Dougherty (Andersen)
Cassandra Holley (Andersen)

OBSERVERS:

Jim Jordan (OMB)
Steve Redburn (OMB)
Garth Rieman (Nat'l Council of State
Housing Agencies)

**HUD HOUSING CERTIFICATE FUND
NEGOTIATED RULEMAKING ADVISORY COMMITTEE
FINAL DRAFT ALLOCATION SYSTEM PROPOSAL**

Under the Quality Housing and Work Responsibility Act enacted by Congress in 1998, PHAs should be encouraged to manage their Section 8 programs in an efficient manner that allows them to serve the maximum number of families within their budget allocation. In light of this, the Committee, having reviewed several unit- and dollar-based renewal funding systems, proposes the following eight-part refinement of the existing HUD allocation system. The following recommendations shall not be construed to mean that HUD is obligated to provide funding beyond its congressional appropriation.

1. Minimum number of families served

Each PHA must continue to be supported at a level sufficient to serve, at a minimum, the number of families that it was serving as of 10/1/97 based on the higher of contracted or leased certificates plus the higher of contracted or leased vouchers (after all PHAs have had an opportunity to review the numbers, request corrections, etc.) and adjust for any changes, whether increasing or decreasing, in incremental units according to ACCs issued after 10/1/97.

→ I think it should read “adjustED for any changes, ...”

2. Resolution of Baseline Issues

HUD will establish a procedure for PHAs to request a review and revision of their 10-1-97 baseline unit allocation. HUD will notify all PHAs of this procedure and the deadline for submitting requests. PHAs that believe that their baseline unit allocation is inaccurate will need to submit requests and provide HUD with supporting documentation before the deadline. The designated HUD office will review PHA requests and make a decision within a fixed period of time. If HUD decides to make an adjustment to the baseline, the adjustment will be included in the PHA's funding for the following fiscal year.

PHAs that disagree with HUD's decision may appeal the request to a HUD office designated to receive appeals. The decision of this office will be final.

3. Budget Allocation and Adjustment

HUD will allocate budget authority for each PHA in its fiscal years 2000, 2001 and 2002 by multiplying the baseline units (holding harmless the budget authority for unexpired multi-year contracts) by actual cost figures from the PHA's most recent approved fiscal year-end statement, and then by inflating that amount by the appropriate HUD annual adjustment factor (AAF) to the effective date of the renewal.

If a PHA believes that the change in its actual per unit costs for the coming fiscal year will be substantially different (higher or lower) than predicted by its AAF, the PHA may submit

documentation of its current and projected actual costs and a request for a change in its budget authority to the designated HUD office. The HUD office will make a decision on the request based on the documentation provided by the PHA and the availability of program funds.

4. Improvement of Annual Adjustment Factors and Procedures

During the period 2000-2002 HUD and other Section 8 stakeholders will continue to seek ways to improve the annual adjustment process. To do so, they will gather data on PHAs' actual costs, including data on changes in rents, tenant incomes, bedroom size distribution and other cost factors. They will seek to develop adjustment factors and procedures that are more accurate and timely than the current AAFs. They will pilot test the use of these factors and procedures with a representative sample of PHAs.

If HUD and other stakeholders are able to develop adjustment factors and procedures that are more accurate and timely than the current AAFs, HUD will revise the allocation system to use the more accurate factors and procedures.

5. Use and Replenishment of PHA Project Reserves

The Committee recommends that HUD continue to provide a two-month reserve for each PHA. In the Committee's assessment, current and anticipated changes in Section 8 program goals and policies (e.g. income targeting, deconcentration goals, merger of voucher and certificate programs) will make it difficult for PHAs to accurately predict their program costs during the next several years. PHAs will need to have access to reserves in addition to their annual budget authority to cover unanticipated increases in program costs.

Non-troubled PHAs should be authorized to use up to 50% of their two-month reserves under the following circumstances:

- a. if a PHA experiences unanticipated increases in unit costs, it may use its reserves to lease up its baseline number of units for the current fiscal year,

In this circumstance, HUD will replenish reserves up to the 2-month level, subject to the availability of funds.

- b. if a PHA is able to support more than 100% of its baseline units within its budget authority, the PHA may use its reserves in the following fiscal year to maintain families in housing while attriting to 100% of baseline. The PHA may not use reserves for statutory leasing in the second fiscal year, and must replenish its reserves from its budget authority during the second year.

In this circumstance, HUD will replenish reserves up to the 2-month level, subject to the availability of funds, if i) the PHA submits a two-year plan for statutory leasing and attrition back to baseline before making use of its reserves, and ii) returns to its baseline within the second fiscal year.

- b. above reads that the PHA has to replenish their own reserves, then says that HUD may replenish the reserves.
- c. if a PHA wishes to maintain an average 100% lease up rate for the fiscal year, it may use its reserves for statutory leasing (up to 105% of baseline), within the fiscal year. PHAs using reserves for this purpose are responsible for achieving attrition back to the baseline within the fiscal year.

In this circumstance, the PHA is responsible for replenishing its reserves within the fiscal year from its budget authority. HUD will not replenish PHA reserves used for this purpose.

If a PHA seeks to use more than 50% of its reserves for any purpose, the PHA will notify the HUD Field Office and work with its staff to determine why the PHA's costs have deviated from projections and explore possible alternatives (such as management efficiencies) to address rising costs.

Note: Even if PHAs are able, through efficient management, to serve additional households in any given year (above their approved baseline), those additional units would not become part of any PHA's baseline allocation or HUD responsibility.

6. Recapture and Recycling of Reserve Funds

In order to replenish PHA reserves, HUD will establish a procedure for recapturing unspent PHA budget authority in excess of a 2-month reserve, and recycling it to PHAs that qualify for replenishment. HUD will perform this recapture at the end of each PHA's fiscal year, using the PHA's year-end statement. HUD will automate the procedure for recapture and recycling in order to ensure timely use of Section 8 program budget authority within HUD's fiscal year.

If HUD appropriations are insufficient to replenish fully all reserves for all PHAs, HUD will replenish reserves according to a fair and simple method which takes into account current reserve levels and PHA needs.

7. Reallocation of Budget Authority

If a PHA falls below 90% lease-up rate for a fiscal year, and the PHA has not used all of its budget authority for that year, HUD will notify the PHA that it needs to increase its lease-up rate to at least the 90% level in the following fiscal year in order to maintain its current baseline number of units.

PHAs in this circumstance will have several options for achieving 90% lease up:

- a. improve internal management systems and lease-up strategies;
- b. contract with another PHA, non-profit or for-profit housing agency to take responsibility for leasing a set number of units;
- c. voluntarily transfer units to another PHA using portability procedures;
- d. voluntarily return a portion of its baseline allocation and budget authority to HUD.

If the PHA is unable to achieve the lease up target by the end of the second fiscal year, HUD may reduce its baseline unit count and budget authority, such that the PHA would be expected to reach 90% lease up in the following fiscal year within its revised budget authority.

HUD will reallocate unused units and their associated budget authority using the following guidelines:

1. If HUD determines that there is substantial demand for Section 8 units in a PHA's community despite the fact that the PHA is underleased, HUD will seek to reallocate the units and budget authority to another housing agency (public, non-profit or for-profit) that can serve the same community.
2. If HUD determines that the underleased PHA's community does not have substantial demand for the units, HUD will seek to reallocate the units and budget authority within the same state served by the PHA.
3. In reallocating units and budget authority, HUD will give priority to PHAs which i) have previously voluntarily given up units and budget authority to HUD, ii) have subsequently demonstrated a need for additional units and budget authority, and iii) have adequate SEMAP performance scores.
4. Any PHA which has lost units and budget authority may qualify for new units and budget authority if its SEMAP scores are adequate and it demonstrates a need for new units and their associated budget authority.

8. Administration of the Allocation System

Annualized Funding: To simplify annual budget allocations, HUD will annualize each PHA's incremental funding. To do so, HUD will develop and implement a method for standardizing each PHA's increments to a single calendar date. It will also automate the allocation process to the greatest extent possible.

Quarterly Recapture and Recycling of Reserves: To facilitate timely recapture and recycling of unused reserve authority, HUD will develop a quarterly system for recapturing and recycling unused reserves. Under this system, HUD will recapture unused reserves from PHAs with fiscal years ending in a particular quarter, and recycle these funds to replenish the reserves of other PHAs whose fiscal year ends in that quarter.

Transparent Calculation of Annual Budget Authority: To improve the flow of information between HUD and PHAs, HUD will provide each PHA with a detailed annual listing of its unit increments and their associated budget authority. This information may be provided as part of HUD's annual funding notification to each PHA.

More Rapid Submission and Processing of Year-end Statements: In order to increase the accuracy of information used for budget authorization, HUD and PHAs will seek to reduce the

time required for PHAs to submit year-end statements to HUD and the time for HUD to review the year end statements.

Increased Accuracy of and Access to MTCS and HUDCAPS: HUD and PHAs will seek to improve the timeliness and accuracy of information in the MTCS and HUDCAPS databases. HUD will provide PHAs with access to their MTCS and HUDCAPS data through either paper reports or Internet-based read-only access.