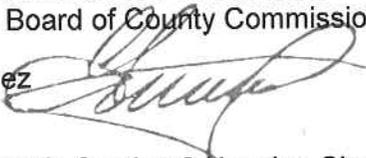


Memorandum



Date: March 13, 2012

To: The Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor 

Subject: Miami-Dade County's Section 8 Housing Choice Voucher Program - Funding Update

This correspondence is to provide follow-up to the attached October 17, 2011 memorandum to the BCC regarding projected revenues and shortfalls in our Section 8 Housing Choice Voucher (HCV) program for fiscal year beginning October 1, 2011. On September 9, 2011, Miami-Dade Public Housing and Community Development (PHCD), formerly Miami-Dade Public Housing Agency, sent the attached request for a regulatory waiver to the US Department of Housing and Urban Development (USHUD) for immediate implementation (effective November 1, 2011) for a reduction in payment standards in accordance with HUD Notice PIH 2011-28(HA). Based on federal regulations, the reduction in payment standards is NOT applied to existing HCV participants for at least one year if they remain in the same unit. After almost five months of review, PHCD was informed by USHUD on February 24, 2012 that this waiver request was denied.

Background

PHCD implemented the reduced payment standards on November 1, 2011 as stated in the September 9, 2011 request. The reduced payment standards otherwise would go into effect October 1, 2012 for existing HCV participants and, as a result, would have minimal to no financial impact for fiscal year 2011-12. USHUD granted waivers for at least seven other Public Housing Authorities (PHAs) across the country in 2011, enabling them to institute the lower payment standard early and save money. HUD reasoned in those instances that the waiver was granted to enable the PHAs to manage within allocated budget. Since PHCD experienced a \$3.387 million shortfall in HCV funding for calendar year 2011, it is unclear why USHUD chose to deny our waiver request. In denying this waiver, USHUD also is requiring that PHCD adjust all annual recertifications that used the lower payment standard since November 1, 2011. This adjustment for November and December 2011 will increase the shortfall for 2011 by an additional \$567,000.

USHUD has an established practice that grants approval of waivers well after request and implementation dates. In the past, a Miami-Dade waiver request dated February 12, 2010 for a requirement with a due date of March 13, 2010 was not granted until July 13, 2010, over five months after the request was received by USHUD. Therefore, PHCD felt it prudent to move forward with implementation in anticipation of a favorable response from USHUD.

Action Plan

PHCD firmly disagrees with USHUD's analysis of the projected 2012 financial data that was used to justify this denial. In response to USHUD's denial, we will send our own analysis with correct and more responsible data. It is unclear whether this will make a difference in this determination since USHUD has been unwilling to acknowledge or correct past questionable decisions inflicted upon Miami-Dade County. Owners and tenants participating in the Section 8 HCV program will be informed of the necessary increases to contract rents and any resulting decreases to tenant rent where tenant payments increased because of lower payments from PHCD to the owner. All adjustments will be made as soon as possible over the next several weeks. The increased program costs for this

The Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners
Miami-Dade County's HCV Program Update
Page 2

adjustment will be covered by Section 8 reserves that accrued with the decreased payment standards implemented on November 1, 2011.

We will continue to keep you updated on the funding situation and any risk of participant termination as USHUD's 2012 renewal funding process is implemented. If a HCV funding shortfall exists at the end of calendar year 2012, the possibility exists that participants will be terminated from the HCV program. If you have any questions regarding this update, please contact my office or Gregg Fortner at 786-469-4106.

Attachment

c: Russell Benford, Deputy Mayor
Gregg Fortner, Director, PHCD
Jennifer Moon, Director, Management & Budget
Charles Anderson, Commission Auditor

Memorandum



Date: October 17, 2011
To: The Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners
From: Carlos A. Gimenez
Mayor 
Subject: Miami-Dade County's Section 8 Housing Choice Voucher Program - Funding Update

This correspondence is to provide additional information on an issue raised at the September 22, 2011 budget hearing regarding a projected reduction in revenue of \$12 million in our Section 8 Housing Choice Voucher (HCV) program. The US House of Representatives Appropriations Subcommittee and the US Senate Appropriations Committee recently held their first "mark-up" sessions regarding the FY2012 Transportation, Housing and Urban Development (T-HUD) funding bill. Both mark-ups reflect deep cuts to all Public Housing and Community Development (PHCD) programs. This memorandum provides information on the measures taken by the County to prepare for this funding shortfall in the HCV program and the impact on program participants.

Background

Over the last few years, rental subsidy payments to HCV program landlords have increased substantially due to the deterioration of the economy. Participants in the program have faced layoffs at a greater rate than the area average, thus reducing the amount of rent paid by the tenant and increasing the rent burden for the program. For the period of January 2008 through March 2011, the average housing assistance payment (HAP) expenditures increased by 14% (from \$745 to \$848 per subsidized unit), whereas annual HAP funding during the same period increased only 10.7% (from \$131.9 million to \$135 million). At the same time, the average total tenant portion (TTP) has declined from \$349 in January 2008 to \$295 in March 2011 a decrease of 15%.

Strategy to Manage Shortfall and Impact

Beginning in November 2011, the County, through PHCD, will lower the voucher payment standard to 90% of FY 2012 Fair Market Rents (FMRs). The payment standard is the maximum monthly housing assistance payment the department can make on behalf of the tenant. The reduction of the payment standard will allow the department to serve the same number of residents we are currently serving. Without lowering the payment standard, we would be forced to terminate assistance to over 2,200 families. The implementation of a payment standard reduction throughout FY2012 will mitigate the anticipated reduction in funding.

Current and New Voucher Payment Standard

Unit Size	SR0	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR	7 BR	8 BR
Current Payment Standard	\$659	\$842	\$953	\$1,156	\$1,479	\$1,728	\$1,987	\$2,246	\$2,438	\$2,691
New Payment Standard	\$553	\$738	\$835	\$1,013	\$1,296	\$1,514	\$1,741	\$1,968	\$2,195	\$2,422

In many cases, the reduced subsidy payment will result in an increased rent burden on the tenant. Participants who cannot afford the higher rent portion may ask for a rent reduction from the landlord or request a move to a more affordable property.

The Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners
Miami-Dade County's HVC Program Update
Page 2

To provide a forum for landlords to better understand the changes discussed in this memorandum, the department invited all Section 8 landlords to a meeting to review the proposed federal funding and its impact on them. Over 300+ landlords attended the September 15, 2011 meeting.

We will continue to keep you updated on the federal budget outlook as we receive additional information. As of October 1, 2011, the federal government is under a continuing resolution as both the House and Senate have yet to agree upon a FY2012 Appropriations Bill. If you have any questions regarding this update, please contact Gregg Fortner, Director, PHCD at 786-469-4106 or me directly.

c: Russell Benford, Deputy Mayor
Gregg Fortner, Director, PHCD
Jennifer Moon, Director, Management & Budget
Charles Anderson, Commission Auditor



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

OFFICE OF PUBLIC AND INDIAN HOUSING

FEB 24 2012

Mr. Gregg Fortner
Executive Director
Miami-Dade County Public Housing
and Community Development
701 NW 1st Court, 16th Floor
Miami, FL 33136-3914

Dear Mr. Fortner:

On September 9, 2011, you requested a waiver of 24 CFR § 982.505(c)(3) so that the Miami-Dade Public Housing and Community Development (MDPHCD) could apply the lower payment standard amount at each family's first annual reexamination following the reduction in the payment standards for all reexaminations effective on or after November 1, 2011. The cited regulation provides that, if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning on the effective date of the family's second regular reexamination following the effective date of the decrease.

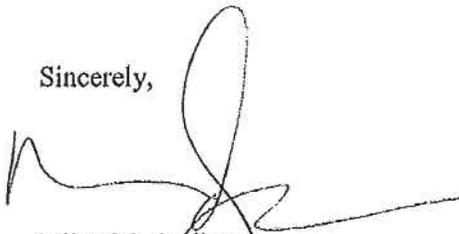
For clarification, it should be noted that a public housing agency (PHA) can reduce its payment standards at any time in accordance with its administrative plan policies. However, applying those reduced payment standards before the family's second annual reexamination after the reduction requires a waiver of the aforementioned regulation, and such waivers are only applicable for the calendar year in which a PHA will experience a shortfall. It is our understanding that MDPHCD did not want to pursue a waiver that immediately applied the decrease in payment standards to all families in 2011. Therefore, in order for the waiver to be approved as requested (and not apply only to the months of November and December 2011) HUD had to determine that MDPHCD would have a shortfall in 2012.

Staff in the Miami Office of Public Housing has been working in conjunction with the Shortfall Prevention Team (SPT) in reviewing the various factors to determine whether sufficient grounds exist, consistent with current regulations and policy, to recommend that the Assistant Secretary approve your agency's request. During that time period, the SPT has shared and exchanged information with Craig Clay, MDPHCD Deputy Executive Director/Chief Financial Officer, regarding this request in order to come to agreement on the variables that would be used for the financial analysis. According to the analysis performed by the SPT there is not good cause to support this waiver request for calendar year 2012 (see attached analysis). According to the SPT's projections, MDPHCD could potentially realize a year-end surplus of approximately \$8,842,092. Therefore, a waiver of 24 CFR § 982.505(c)(3) will not be approved.

It is our understanding that MDPHCD started applying its lower payment standards to its families recertified for the month of November 2011 and has continued to do so without the requisite waiver. Consequently, any families that have been overpaying their tenant share of the gross rent due to the lowering of the payment standards in violation of 24 CFR § 982.505(c)(3) must be reimbursed for each month they overpaid. You should work with the field office to ensure that this task is accomplished in a timely manner.

Should you wish to discuss this matter further, please contact Phyllis Smelkinson, Housing Program Specialist, Housing Voucher Management and Operations Division, at (202) 402-4138.

Sincerely,

A handwritten signature in black ink, appearing to read 'Milan M. Ozdinec', with a large loop at the end.

Milan M. Ozdinec
Deputy Assistant Secretary for Public
Housing and Voucher Programs

Attachments

HCV Leasing and Spending Projection

Check box to change to a CY Rebenchmarking method
 Check box to eliminate Yr End Leasing set aside

PHA Name: **SPAR DADE HOUSING AUTHORITY** PHA Number: **FL005**

ACC and Funding Information		
Calendar Year	Yr 2 Calendar Year	Yr 3 Calendar Year
2012	2013	2014
Beginning ACC # Youchers: 14,677	14,677	14,677
Initial ABA Eligibility Funded: \$140,497,708	\$130,330,020	\$126,465,044
Set Aside Funding, Year End Leasing: 50	50	50
Set Aside Funding, Other Categories: 50	50	50
New ACC Units Funding: 50	50	50
Total ABA Funding: \$140,497,708	\$130,330,020	\$126,465,044

Funding Pro-Ration Levels	
Yr 2 & 3 Re-Benchmarking Provision	99.0%
Yr 2 Set Aside Provision	80.0%
Admin Fee Provision	75.0%
Optional NRA OFFSET variable	0.0%

Program Projection Variables		
Success Rate	88%	Annual Turnover rate: 3.0%
Three from issuance to HAP off Date	45%	Average months from issuance to HAP OFF DATE: 1.85
% Leased in 30 days	45%	
% Leased in 30 to 60 days	10%	
% Leased in 60 to 90 days	0%	
% Leased in 90 to 120 days	0%	
% Leased in 120 to 150 days	0%	

Leasing and Spending Outcomes: Current and Following Year Projections	
Current Year End Projection	Following Year End Projection
ENL % of ACC (USMA): 89.4%	86.2%
HAP Imp as % of Fund. (OD, - NR, L): 93.7%	94.3%
HAP Exp as % of ABA only: 93.7%	95.0%

Projected Yr End NRA: \$2,842,092	\$14,685,641
NRA as % of ABA: 6.3%	8.3%

DISCLAIMER:
 Year Two and Three Re-Benchmarking findings, projections are only estimates. Calculations using assumptions discussed in the guidance.
 User roles include: accounting, operations, and...

Re-Benchmarking Year Three Monthly ABA minus HAP Exp	
338,500	# Months NRA will cover Yr 3 Monthly Cost: 338.12

Prior year Oct-Dec leasing and spending	Oct 2011	Nov 2011	Dec 2011
Units leased	13,207	15,253	13,287
HAP	\$1,681,797	\$1,618,147	\$1,316,028

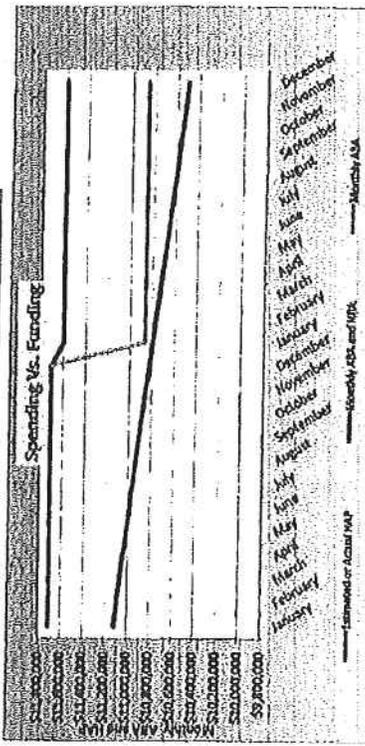
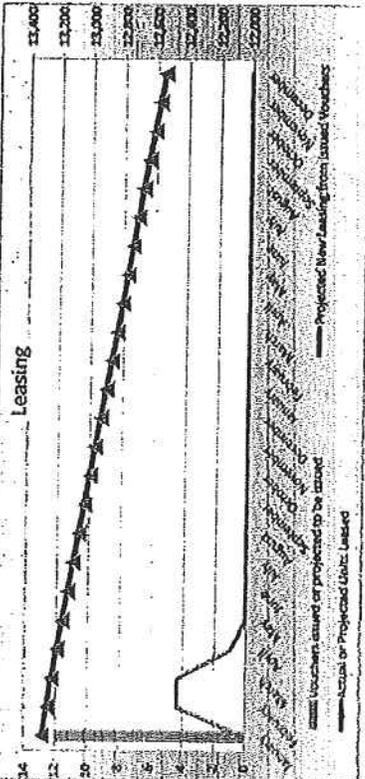
Expanding CY Net Rethrowed Assets (NRA): 50	\$2,842,092	\$14,685,641
Year Funding: \$140,497,708	\$130,330,020	\$126,465,044

ABA per ACC unit month: \$737.72	\$740.04	\$738.22
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Col. A - first 600 units	Col. B	Projected ABA Fee	Projected ABA Fee
594.48	588.12	\$10,433,808	\$10,377,282

HCV Leasing and Spending Projection

2012	ACC Units (UMAs) (enter only if change)	ACTUAL Leased Units	Actual MAP	Vouchers Issued, or projected to be issued	Other Planned additions or reductions to issued units	New Leasing from Issued Vouchers	Estimated Attrition	Leased units: Actual and Projected	HAP Expense: Actual and Projected	PUC Actual or Projected	Annual PUC Over/Under	Cumulative Annual % of PUC	Monthly UML %	Monthly ADA Estimated %
January	14,677	13,267	\$14,116,039	12		0	-33	13,267	\$14,116,039	\$837		90.5%	90.5%	94.9%
February	14,677	0	50			4	-33	13,267	\$14,116,039	\$837		90.4%	90.3%	94.7%
March	14,677	0	50			4	-33	13,267	\$14,116,039	\$837		90.5%	90.1%	94.5%
April	14,677	0	50			1	-33	13,197	\$14,040,881	\$837		90.2%	89.9%	94.3%
May	14,677	0	50			0	-33	13,164	\$13,991,279	\$837		90.1%	89.7%	94.1%
June	14,677	0	50			0	-33	13,131	\$13,941,676	\$837		90.0%	89.5%	93.8%
July	14,677	0	50			0	-33	13,098	\$13,892,073	\$837		89.9%	89.2%	93.6%
August	14,677	0	50			0	-33	13,065	\$13,842,470	\$837		89.8%	89.0%	93.4%
September	14,677	0	50			0	-33	13,032	\$13,792,867	\$837		89.7%	88.8%	93.1%
October	14,677	0	50			0	-33	13,000	\$13,743,264	\$837		89.6%	88.5%	92.9%
November	14,677	0	50			0	-33	12,968	\$13,693,661	\$837		89.5%	88.4%	92.7%
December	14,677	0	50			0	-32	12,936	\$13,644,058	\$837		89.4%	88.1%	92.4%
TOTAL	146,774	13,267	\$14,116,039	12	0	10	-304	137,968	\$14,866,677	\$837	\$837	89.4%	83.7%	93.7%
January	14,677					0	-32	12,903	\$14,716,031	\$837		87.9%	87.9%	98.4%
February	14,677					0	-32	12,871	\$14,666,424	\$837		87.8%	87.7%	98.1%
March	14,677					0	-32	12,838	\$14,616,817	\$837		87.7%	87.5%	98.0%
April	14,677					0	-32	12,806	\$14,567,210	\$837		87.6%	87.3%	97.9%
May	14,677					0	-32	12,774	\$14,517,603	\$837		87.5%	87.2%	97.8%
June	14,677					0	-32	12,742	\$14,468,000	\$837		87.4%	87.0%	97.7%
July	14,677					0	-32	12,711	\$14,418,397	\$837		87.3%	86.8%	97.6%
August	14,677					0	-32	12,680	\$14,368,794	\$837		87.2%	86.6%	97.5%
September	14,677					0	-32	12,649	\$14,319,191	\$837		87.1%	86.5%	97.4%
October	14,677					0	-32	12,618	\$14,269,588	\$837		87.0%	86.4%	97.3%
November	14,677					0	-32	12,587	\$14,219,985	\$837		86.9%	86.2%	97.2%
December	14,677					0	-31	12,556	\$14,170,382	\$837		86.8%	85.7%	96.9%
TOTAL	146,774	0	\$0	0	0	0	-303	137,727	\$14,772,771	\$837	\$837	86.7%	85.5%	96.7%



Comments

SPV: Additional Leasing should prioritize utilization of the currently released 50 VASST vouchers. Current Calculated NGA of \$175,000 compares to Current VMS NGA of \$17,600,000. VMS NGA as % of NGA calculated NGA is 0.000973817788. Note Negative DNA of \$2,500,000. Cash & Invest. of \$8 compares to NGA plus DNA of \$17,600,000.



Carlos A. Gimenez, Mayor

Public Housing and Community Development

701 NW 1st Court • 16th Floor
Miami, Florida 33136-3914
T 786-469-4100 F 786-469-4199

miamidade.gov

February 13, 2012

Mr. José Cintrón, Director
Office of Public Housing
U.S. Department of Housing and Urban Development
Region IV, Miami Field Office
Brickell Plaza Federal Building
909 SE First Avenue, Room 500
Miami, FL 33131-3042

Dear Mr. Cintron:

This responds to your February 2, 2012 letter detailing your office's position regarding the Miami-Dade Public Housing and Community Development (PHCD) request from September 9, 2011 for regulatory waiver for immediate implementation of a payment standard (PS) reduction with an effective date of November 1, 2011. This further serves to correct inaccurate information contained in your letter and challenges the assumptions and unilateral actions taken by your office regarding this request without consultation or the consent of PHCD. Additionally, this serves again to request that our September 9, 2011 waiver request be submitted for approval to the office of the Assistant Secretary of Public and Indian Housing in accordance with Notice PIH 2011-28(HA).

Your correspondence begins by erroneously referring to our September 9, 2011 request as "a general request for implementation through calendar year (CY) 2012." Please refer to the language in our request letter. The content is specific to immediate intent and implementation date and, therefore, contradicts your letter's description of "general." Your letter correctly notes that your office requested and received information from PHCD on October 20, 2011. What your letter fails to mention is that this information was requested by your office in mid-October 2011, more than 30 days after your office received our request on September 9, 2011.

Your letter acknowledges that HUD was aware of a likely shortfall throughout 2011 but dismisses this as appropriate justification for the waiver request because PHCD staff "pledged" to cover any shortfalls with other funding sources. Even if such strategies were discussed in dealing with our eventual shortfall, it was presumptuous of your office to assume that those strategies would preclude our fiduciary responsibility to explore and implement cost savings measures to mitigate any shortfalls. In fact, PHCD's shortfall of \$3.6 million at fiscal yearend 2011 would have increased to over \$4.5 million by December 31, 2011 if not for the immediate implementation of reduced payment standards after PHCD ensured proper public notice and preparation. These undisputed facts more than support the approval of the September 9, 2011 request for immediate implementation.

We would like to bring to your attention a few items in your letter that should be corrected. Your letter states that "any approved waiver can only be implemented within the calendar year for which it is approved." Your letter then provides information regarding assumptions made by your

office regarding PHCD data. Based on these assumptions, your letter states that "It has been determined [by HUD] that a shortfall in CY2012 is not likely." The letter goes on to say that after additional expense data is available "any shortfall in CY2012 can still be addressed at a later point in the year once more actual expense data is recorded." As mentioned earlier, our request is for CY2011. This request has NOT been withdrawn. If unilateral decisions had not been made by your office to consider our September 9, 2011 request as a CY2012 request, the same solution your letter suggests for CY2012 is exactly what is requested in our September 9, 2011 letter and HUD's own numbers validates the significant shortfall for CY2011.

Further, your letter notes that "once a PS waiver is approved, and the shortfall crisis is addressed, no new vouchers may be issued within the calendar year for which it is approved." Your letter goes on to state that the "PS waiver approval is designed to address shortfalls in funding, not increase the size of the HCV program for authorities. The effect of this policy is that it is required that a PHA only request a waiver and implement it in a month where analysis shows that it is absolutely required to address the shortfall, and will therefore not provide substantial additional HAP funds." Considering the fact that the HUD Shortfall Prevention Team had been working with PHCD since at least June 2011 and your letter indicates that HUD's "regular analysis and projections demonstrated a likely funding shortfall by the end of calendar year 2011," it is unclear why your office would have made the decision to ignore this request for CY2011. Additionally, your conclusions regarding HUD's concerns that excess reserves could be available and used to increase the size of the HCV program are unfounded since such a scenario is virtually impossible given HUD's new 3-month review process for renewals.

In essence, Notice PIH 2011-28(HA) and the facts listed above do not support your office's actions or conclusions regarding the timing and conditions under which a waiver request can be submitted or granted. Additionally, your office has not acted in accordance with the procedures published for waiver requests in Notice PIH 2011-28(HA). Again, in accordance with Notice PIH 2011-28(HA), PHCD requests that your office forward our September 9, 2011 waiver request (that specified an implementation date of November 1, 2011) to the office of the Assistant Secretary of Public and Indian Housing for approval. We expect a favorable response from HUD. Please ensure all correspondence that we have sent to your office in regards to this matter is attached to your recommendation and lists PHCD as the contact for additional information. Since this request has been pending for over five (5) months, we further request that this process be expedited so that we can plan appropriately for the future administration of our HCV program.

If there are any questions or requests for further information or clarification, please call me at 786-469-4106 (email: fortner@miamidade.gov).

Sincerely,



Gregg Fortner
Executive Director

Enclosures



U.S. Department of Housing and Urban Development

Region IV, Miami Field Office
Brickell Plaza Federal Building
909 SE First Avenue, Rm. 600
Miami, FL 33131-3042

February 2, 2012

Mr. Gregg Fortner
Executive Director
Public Housing and
Community Development
701 NW 1st Court, 16th Floor
Miami, FL 33136

Dear Mr. Fortner:

This is to respond in further detail to your request for a waiver of payment standard regulations required for any implementation of payment standard decreases in the HCV Program prior to the second regularly scheduled tenant re-exam. This was a general request for implementation through calendar year (CY) 2012 to help mitigate the anticipated funding shortfall. Upon review of your initial request, we required additional information regarding PHCD actions taken or anticipated that would address the potential increased rent burdens placed upon the current tenants with the proposed payment standards, and a description of cost saving measures already taken or anticipated to help reduce HAP costs. On October 20, 2011, we received this additional information, including a statement from the PHCD that as many as 2,200 tenants could be terminated in 2012 if the anticipated shortfall was not addressed.

HUD has been working with your HCV and Finance Department throughout 2011 to determine possible funding shortfalls. Our regular analysis and projections demonstrated a likely funding shortfall by the end of the calendar year 2011, although on a decreasing scale throughout the year based upon actual VMS data. Your Finance Director pledged non-federal funds (COCC surplus) to cover any shortfalls in the program for 2011 as he described had been done in past years. Although the PHCD has experienced past funding shortfalls, the positive effect upon the HCV program has been to increase the amount of eligible funding received in subsequent years due to the existing funding methodology that bases the amount of eligible funding for a calendar year upon HAP expenditures in the prior year.

This Office, in conjunction with the Office of the Assistant Secretary's Shortfall Team determined that this payment standard (PS) waiver request would be evaluated as a request for CY 2012, due to the statements in the request and additional information that associated the anticipated shortfall and possible termination of tenant assistance as happening through 2012. In addition, it was not deemed feasible to consider CY 2011 for this waiver request at the late point in the year in which it was finally submitted because of the required advance notice that must be provided to tenants in the case of a PS decrease. Also, the PHCD had already stated any additional funding needed through CY 2011 would be covered by the COCC profits and did not indicate a problem with terminating family assistance in CY 2011.

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development and increase access to affordable housing free from discrimination.*
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Because waiver requests are only considered within a calendar year and the September 9, 2011 waiver request was considered as a 2012 request, we requested that the PHCD rescind the initial request due to the proposed implementation date request of November of 2011; and a new one be submitted for CY 2012. Any approved waiver can only be implemented within the CY for which it is approved and it cannot be approved either prospectively or retroactively. Accordingly, after the receipt of the additional information that stated that the agency faced possible family assistance terminations in 2012; unless gradual monthly PS decreases were implemented through 2012, we chose to treat your original waiver request as a request for CY 2012.

Our Office has been working with the Assistant Secretary's Shortfall Prevention Team (SPT) to analyze the estimated funding versus possible spending in CY 2012. Based upon that review, it has been determined that a shortfall in CY 2012 is not likely given the current HAP costs, an assumption of a modest two percent attrition rate, and the understanding that no new vouchers would be issued during the year. The SPT and our Office have determined that if such projections prove to be inaccurate, any shortfall in CY 2012 can still be addressed at a later point in the year once more actual expense data is recorded. If it is determined at a later point that a PS waiver is the only way the PHCD can avoid a shortfall that will cause family assistance terminations, we may recommend approval at that time. However; it must be noted that once a PS waiver is approved, and the shortfall crisis is addressed, no new vouchers may be issued within the calendar year for which it is approved, even if the funds saved through the implementation of the lower PS proved to be sufficient to cover the costs of the new issuances.

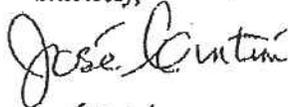
We have been informed by the SPT that this policy has been adopted because of prior legal action taken against the Agency by housing authority tenants whose payment standards were decreased; thereby causing additional rent burden to them, while the HA subsequently demonstrated it had enough funding within the year to issue additional vouchers. The PS waiver approval is designed to address shortfalls in funding, not increase the size of the HCV program for authorities. The effect of this policy is that it is required that a PHA only request a waiver and implement it in a month where analysis shows that it is absolutely required to address the shortfall, and will therefore not provide substantial additional HAP funds. If such implementation were to do so; said funds could only be held in reserve, thereby increasing the likelihood that they would be used to reduce the funding eligibility for the following calendar year.

As our Office has always done in the past, we will continue to work with your agency to address any anticipated funding shortfalls through CY 2012. As an example, an area in which we believe you may be able to cut costs is with regard to your utility costs attendant to the HCV program. During our review of your request, we noted that an analysis of a current PHCD PIC tenant database shows that more than 3,000 families live in units that are larger than the voucher size issued. Because of this, the PHCD is paying the increased utility allowance for those larger units. Notice 2011.28 -- *Cost Saving Measures for the HCV Program* states that a waiver can be requested to apply the utility allowance of the voucher's bedroom size instead of the actual unit's utility allowance. Our analysis of a the PIC dataset of the HCV tenants shows that approval of this waiver may save the PHCD approximately \$120,000 per month if all of the families with units larger than their voucher size were only allowed the voucher size utility allowance. We recommend that the PHCD apply for this waiver immediately as it does not appear to be necessary to demonstrate a shortfall if this is the only waiver request to cut costs.

We must stress again however, that your agency acted in violation of the regulations when it implemented the proposed new payment standards without first having received a waiver approval signed by the Assistant Secretary. We therefore are obliged to repeat our instructions stated in our letter dated January 17, 2012, that the PHCD must return any additional funds paid by all affected parties and reinstate the proper payment standards. VMS reporting in those months affected should reflect the corrected HAP paid by the PHCD after tenant remedy, whether these additional expenses are in the form as cash or as a payable to any affected party. This action will also ensure that the PHCD HCV program funding for CY 2012 is not negatively impacted due to the lower costs shown.

As always, our Office is prepared to meet with you and/or your staff to discuss this matter further.

Sincerely,



José Cintrón
Director
Office of Public Housing

cc: Craig Clay
PHCD Chief Financial Officer

Karen Cato-Turner
Regional Director of Public Housing - Region IV



U.S. Department of Housing and Urban Development

Atlanta Region, Miami Field Office
Brickell Plaza Federal Building
909 SE First Avenue, Rm. 800
Miami, FL 33131-3042

January 17, 2012

Mr. Gregg Fortner
Executive Director
Miami-Dade Public Housing and
Community Development
701 NW 1st Court -16th Floor
Miami, FL 33136

Dear Mr. Fortner:

This is in response to the Miami Dade Public Housing and Community Development (MDPHCD) letter dated January 10, 2012 regarding the implementation of a reduction in its Payment Standards (PSs) to 90% of the Fair Market Rents effective November 1, 2011, for the Section 8 Housing Choice Voucher (HCV) program.

This Office confirms receipt of the MDPHCD request dated September 9, 2011, to immediately implement a lower PS; in which you ask HUD approval of the waiver required under federal regulations found in 24 CFR 982.505 (c) (3), and informed us of your intention to implement the new PS beginning in November. We promptly entered into discussions with you and Craig Clay, MDPHCD Chief Financial Officer, regarding the potential for an increased rent burden on the HCV clients. We directly discussed with Mr. Clay that our office would need more detailed information and documentation from the Agency prior to reaching a local decision regarding our recommendation. This additional required information included the following; updated financial data to the HCV Forecasting Tools, the actions taken to date to address the potential short fall, and a description of the precautions the agency would take to ameliorate the burden that such an action would place on existing voucher holders. It was made clear to you and to Mr. Clay that such information would be required prior to the Miami Field Office providing its recommendation to the Assistant Secretary; the only person with the authority to approve your request.

We received email correspondence from Mr. Clay dated October 20, 2011, which included most of the requested information; including a copy of the Mayor Carlos A. Gimenez's Memorandum of HCV Program Funding Update to the Board of County Commissioners dated October 17, 2011. After having reviewed the additional information, we swiftly prepared a recommendation to the Assistant Secretary but also made it clear to you and your senior staff that our office did not have the authority to act on the waiver request, and that such authority rested solely in the Office of the Assistant Secretary.

Notwithstanding all of the MDPHCD comments described in your letter, the fact remains that your office never received an approval to your waiver request, and therefore was not authorized to immediately implement the change in the payment standard. It was made clear that the waiver approval could only come from the Office of the Assistant Secretary. At no time was the

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development and increase access to affordable housing free from discrimination.*
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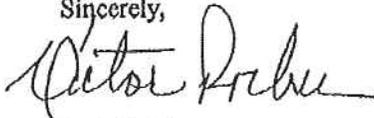
MDPHCD informed that an approval had been granted and you were advised that such an approval cannot be granted retroactively. Each waiver request is handled on a case-by-case basis and the HUD determination is based on the facts pertaining to each individual situation.

Further, during telephone conversations with your delegated representative, our office advised the MDPHCD that the waiver could only be approved on a calendar year basis and we instructed you that it would be required to withdraw the waiver submitted for Calendar Year 2011, and that the Agency should resubmit a request for Calendar Year 2012, effective January 1, 2012. We have been working with the staff of the Assistant Secretary to help them determine whether a waiver approval for 2012 is warranted. When a final decision is reached by the Office of the Assistant Secretary, you will be informed immediately and will then, and only then, be able to proceed accordingly.

It is our understanding that the MDPHCD continues to implement PS reductions without HUD approval of the required waiver. Accordingly, the Miami Field Office is once again instructing the MDPHCD to cease taking any actions regarding the continued implementation of a new PS, except as otherwise allowed by HUD regulations, and to correct tenant rent calculations affected by the new PS.

If you have any further questions regarding this matter, feel free to contact me at 305-520-5091.

Sincerely,


for José Cintrón
Director
Office of Public Housing



Carlos A. Gilmenez, Mayor

Public Housing and Community Development
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miamidade.gov

January 10, 2012

Mr. Jose Cintron
Director of Office of Public Housing
U.S. Department of Housing and Urban Development
Miami Field Office
Brickell Plaza Federal Building
909 SE First Avenue, Room 500
Miami, FL 33131-3042

Dear Mr. Cintron:

This is in response to the attached letter from you received by Miami-Dade Public Housing and Community Development (PHCD) on January 3, 2012 regarding our agency's implementation of a reduction in the Payment Standards (PSs) for the Section 8 Housing Choice Voucher (HCV) Program. This correspondence corrects any misleading information contained in your letter and clarifies PHCD's position as it relates to this matter.

Your letter states in the 2nd paragraph: "This Office [local HUD] became aware that [PHCD] implemented a lower PSs without having first received waiver approval....through an inquiry received from Legal Services of Greater Miami, Inc. (LSGMI), dated November 9, 2011."

Response: Please refer to the attached letter dated and submitted to you on September 9, 2011, (Subject: Waiver Request) which specifically details PHCD's intention and steps planned to implement the PSs reduction beginning November 1, 2011. To date, PHCD has not received a response to this request.

Your letter further states in the 2nd paragraph: "By copy of the response letter to LSGMI... [PHCD] was informed the Department has not approved a waiver...and [PHCD] must take whatever actions...to correct the rent calculations of any HCV client that has been affected."

Response: This statement is inaccurate. PHCD was not copied on your November 21, 2011 letter to LSGMI and no similar letter was addressed and sent to PHCD directing such action. In fact, PHCD became aware of your letter only when LSGMI supplied us with a copy on November 29, 2011. It is also curious to note that your office responded to the LSGMI inquiry within ten (10) business days, yet our request that triggered the LSGMI inquiry is still outstanding after over four (4) months.

Your letter states in the 3rd paragraph: "...Miami Field Office is once again instructing [PHCD] to cease taking any actions regarding the continued implementation of a new PS..."

Response: We take exception to this statement. At no time did the HUD Miami Field Office or any other USHUD office issue any documented "instructions" directly to PHCD. In fact, all

Delivering Excellence Every Day

USHUD Letter
Waiver Request
January 10, 2012

Informal communications with the Miami Field Office and PHCD prior to November 1, 2011 were to provide information to support the waiver request.

As stated in my email to your office on December 14, 2011, this waiver is not unprecedented as indicated by the following excerpt from a National Leased Housing Association newsletter in 2011 as follows:

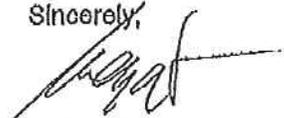
"Payment Standard Reduction: Application at Family's Second Regular Income Re-exam
HUD waived this requirement for seven PHAs, enabling them to institute the lower payment standard earlier and save money. *'This waiver was granted because this cost-saving measure would enable the [PHA] to manage its Housing Choice Voucher program within allocated budget authority and avoid the termination of HAP contracts due to insufficient funding,'* HUD reasoned."

Furthermore, HUD has an established practice that grants late approval of waivers months after the request and implementation dates (refer to the attached Miami-Dade waiver request dated Feb 12, 2010 for PHAS requirement with a due date of Mar 13, 2010. Waiver granted July 13, 2010 per attached letter from Sandra Henriquez, HUD Assistant Secretary, Public and Indian Housing.) Since these HUD precedents exist, PHCD moved forward with implementation of the PS's reduction based on our past and anticipated funding shortfalls. It seems unreasonable that HUD would support exacerbating an agency's funding crisis by expecting the agency to do nothing while HUD considers a request for over four (4) months and counting.

Based on the aforementioned context, PHCD expects a favorable response from HUD on our waiver request submitted on September 9, 2011 with an implementation date of November 1, 2011. Whatever the decision, we will take whatever appropriate actions are necessary to ensure the HCV program is administered within the governing regulations.

If there is any question or request for further clarification, please call me at 786-469-4106 or email: fortner@miamidade.gov.

Sincerely,



Gregg Fortner
Executive Director

Enclosures



U.S. Department of Housing and Urban Development

Atlanta Region, Miami Field Office
Briokell Plaza Federal Building
909 SE First Avenue, Rm. 600
Miami, FL 33131-3042

December 23, 2011

JAN 08 2012

Mr. Gregg Fortner
Executive Director
Miami-Dade Public Housing and
Community Development
701 NW 1st Court -16th Floor
Miami, FL 33136

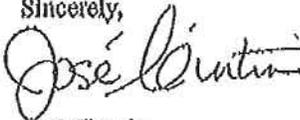
Dear Mr. Fortner:

This is in reference to the Miami Dade Public Housing and Community Development (MDPHCD) implementation of a reduction in its Payment Standards (PSs) to 90% of the Fair Market Rents effective November 1, 2011, for the Section 8 Housing Choice Voucher (HCV) program.

This Office became aware that the MDPHCD implemented a lower PSs without having first received waiver approval of federal regulations under 24 CFR 982.505 (c) (3), through an inquiry received from Legal Services of Greater Miami, Inc. (LSGMI), dated November 9, 2011. By copy of the response letter to LSGMI (see attached), the MDPHCD was informed that the Department has not approved a waiver to implement the new PSs and the MDPHCD must take whatever actions are necessary to correct the rent calculations of any HCV client that has been affected.

We understand the MDPHCD continues to implement PS reductions without HUD approval of a waiver. By this letter, the Miami Field Office is once again instructing the MDPHCD to cease taking any actions regarding the continued implementation of a new PS, except as otherwise allowed by HUD regulations.

If you have any questions regarding this matter, please contact Blaine Furey, Senior Housing Specialist, at (305) 520-5078 or via E-mail at Blaine.C.Furey@hud.gov.

Sincerely,

José Chirón
Director
Office of Public Housing

Enclosure



U.S. Department of Housing and Urban Development

Region IV, Miami Field Office
Brickell Plaza Federal Building
900 SE First Avenue, Rm. 600
Miami, FL 33131-3042

November 21, 2011

Jeffrey M. Hearn
Advocacy Director
Legal Services of Greater Miami, Inc.
3000 Biscayne Boulevard, Suite 500
Miami, FL, 33137-4129

Charles Elscasser
Attorney
Florida Legal Services

Sean Rowley
Senior Staff Attorney
Legal Services of Greater Miami, Inc.

Re: Miami Dade County's Request for Regulatory Waiver

Dear Sirs:

This is in response to your letter dated November 9, 2011, regarding the Legal Services of Greater Miami, Inc.'s (LSGMI's) request to reject the Miami Dade Public Housing and Community Development (MDPHCD) request for a waiver from 24 CFR 982.505, (c), (3) and to inform the MDPHCD to stop processing Payment Standard (PS) changes without formal approval by the Department.

The Department has not allowed the MDPHCD to implement the new PSs and is currently reviewing the waiver request. If the MDPHCD has implemented the new PSs, they did so prematurely and must take whatever actions are necessary to correct the rent calculations of any Section 8 Housing Choice Voucher client that may have been affected.

Should you have any additional questions, please contact me at (305) 520-5078.

Sincerely,

José Clatrón
Director
Office of Public Housing



Carlos A. Gimenez, Mayor

Public Housing Agency
701 NW 1st Court • 16th Floor
Miami, Florida 33136-3914
T 305-469-4100

miamidade.gov

September 9, 2011

Mr. José Cintron
Director of Office of Public Housing
U.S. Department of Housing and Urban Development
Miami Field Office
Brickell Plaza Federal Building
909 SE First Avenue, Room #500
Miami, FL 33131-3042

Subject: Waiver Request

Dear Mr. Cintron:

The purpose of this letter is to request a waiver of 24 CFR §982.505, which requires a housing authority to wait until the second recertification after a payment standard reduction for the reduction to take effect. U.S. Department of Housing and Urban Development (US HUD) PIH Notice 2011-28 allows for immediate application of a reduced payment standard with US HUD approval. The Miami-Dade Public Housing Agency (MDPHA) proposes to lower the payment standards to at least 90% of FY 2012 Fair Market Rents (FMRs), and make the reduction effective with the first recertification after the reduction, beginning in November 2011. Currently, the payment standard for MDPHA is 97.6% of the FY 2011 FMRs. The reason for the payment standard reduction and the urgency for implementation is the anticipated shortfall in Housing Assistance Payment (HAP) funding which has been a continuous problem for MDPHA since its unprecedented \$43 million recapture of Not Restricted Assets from the Housing Choice Voucher program. The Agency's gradual implementation of a payment standard reduction throughout 2012 will mitigate the funding shortfall.

We have scheduled a meeting with the landlord community for September 15, 2011 and plan to send notices to all participants to advise them of the proposed change. If you have any questions, do not hesitate to contact me at 786-469-4106 or at fortner@miamidade.gov.

Sincerely,

Gregg Fortner
Executive Director

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