



# Alton Housing Authority, Alton, IL

## Public Housing Program



**To:** William Wilkins, Director, Office of Public Housing, 5APH  
*//signed//*  
**From:** Ronald J. Hosking, Regional Inspector General for Audit, 7AGA  
**Subject:** The Alton Housing Authority, Alton, IL, Improperly Phased In Flat Rents for Its Public Housing Program

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of the Alton Housing Authority.

HUD Handbook 2000.06, REV-4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the audit.

The Inspector General Act, Title 5 United States Code, section 8M, requires that OIG post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at <http://www.hudoig.gov>.

If you have any questions or comments about this report, please do not hesitate to call me at 913-551-5870.



**Audit Report Number: 2016-KC-1004**

**Date: May 19, 2016**

**The Alton Housing Authority, Alton, IL, Improperly Phased In Flat Rents for Its Public Housing Program**

## Highlights

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### What We Audited and Why

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We audited the Alton Housing Authority because it appeared to have flat rents set at a rate below 80 percent of the fair market rent in that area based on the information available in the Public and Indian Housing Information Center system. Our objective was to determine whether the Authority complied with the U.S. Department of Housing and Urban Development' (HUD) flat rent requirements.

### What We Found

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The Authority did not properly implement HUD's flat rent requirements. It improperly phased in flat rent increases for 13 tenants converting to a flat rent from an income-based rent, and it improperly required 19 tenants to pay annual increases in flat rent greater than 35 percent, the maximum annual increase allowed by HUD. As a result, it undercharged 13 flat rent tenants by \$13,746 from November 1, 2014, to December 31, 2015, and it will undercharge these tenants by \$28,332 during the next year if it does not correct the problem. It also overcharged 19 flat rent tenants by \$6,250 from November 1, 2014 to December 31, 2015, and it will overcharge these tenants by \$10,200 during the next year if it does not correct the problem. In addition, it will collect increased operating subsidies from HUD.

### What We Recommend

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We recommend that the Director of HUD's Chicago Office of Public Housing (1) monitor the Authority to ensure that it understands the flat rent requirements and has properly implemented them, thereby putting \$28,332 to better use over the next year; (2) include the \$13,746 in undercharged flat tenant rent to the appropriate operating subsidy calculations to ensure that it does not overpay operating subsidies; (3) require the Authority to immediately perform interim reexaminations to correct the 19 overcharged tenants' rent so they will not overpay \$10,200 over the next year; (4) require the Authority to credit the \$6,250 in overcharged flat rent to the tenants' accounts; and (5) require the Authority to update its policies and procedures to describe its methodology for calculating flat rents.

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# Background and Objective

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The Alton Housing Authority was established under State of Illinois law to provide quality, affordable, and safe housing to eligible families in the community. The Authority is governed by a five-member board of commissioners and has eight employees: an executive director, a housing manager, an executive assistant, an occupancy specialist, and four maintenance workers. The Authority is located at 2406 Crawford Street, Alton, IL. Its low-rent public housing program consists of 244 units (project number IL055000001). The U.S. Department of Housing and Urban Development (HUD) provides funding based on formula distribution to public housing agencies to cover operating and management costs. Funding eligibility is offset by the amount of expected tenant rental revenue.

## Operating subsidy funding - Alton Housing Authority

Project number	2014	2015
IL055000001	\$760,784	\$741,209

Once each year, public housing agencies must offer families the choice between a flat rent and an income-based rent. Flat rents are intended to reflect market values. When a family's income-based rent is above market value, the family may elect to pay a flat rent instead. According to HUD guidance, higher flat rent levels will ensure that families with higher income pay an appropriate market-based rent. Lower rents are a disincentive for tenants to become self-sufficient and move into unassisted housing, which helps to allow public housing resources to go to those most in need of assistance. HUD encourages public housing agencies to provide a balance between the important goals of supporting the sustained self-sufficiency of families with the increasing demand for affordable housing units among families on their waiting lists.

On May 19, 2014, HUD's Office of Public and Indian Housing (PIH) issued Notice PIH 2014-12(HA). This notice introduced the requirement that flat rents be at least equal to 80 percent of the applicable fair market rent. Fair market rents are gross rent estimates that cover the shelter rent plus the cost of all necessary utilities. The notice also provided the discretion to public housing agencies to phase in rent increases of 35 percent or less over a 3-year period. HUD published questions and answers under this notice, clarifying that any flat rent increase phase-ins should be on a case-by-case basis for existing flat rent tenants. HUD also clarified that the flat rent increase can be phased in beyond the 3-year period if a family would experience a rent increase of more than 35 percent in 1 year. On September 8, 2015, HUD issued Notice PIH 2015-13(HA), which continued the provision that flat rents must be at least equal to 80 percent of the applicable fair market rent.

Our objective was to determine whether the Authority complied with HUD's flat rent requirements.

# Results of Audit

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## **Finding: The Authority Improperly Phased In Flat Rents**

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The Authority did not properly implement HUD’s flat rent requirements. This condition occurred because the Authority did not update its policies and procedures with the new flat rent requirement guidance. As a result, it undercharged some tenants by \$13,746 and overcharged other tenants by \$6,250 from November 1, 2014, to December 31, 2015, and it will collect increased operating subsidies from HUD.

### **Flat Rent Increases Improperly Phased In**

The Authority did not properly implement HUD’s flat rent requirements. Of the Authority’s 53 flat rent tenants, it improperly phased in flat rent increases for 13 tenants converting to a flat rent from an income-based rent. In addition, it improperly required 19 tenants to pay annual increases in flat rent greater than 35 percent, the maximum annual increase allowed by HUD.

### Improperly Phased-In Rent Increases for New Flat Rent Tenants

The Authority improperly phased in flat rent increases for 13 tenants converting to a flat rent from an income-based rent. Notice PIH 2014-12(HA) required public housing agencies to set flat rent at no less than 80 percent of the local fair market rent. It also allowed agencies the discretion to phase in flat rent increases over a 3-year period on a case-by-case basis for existing flat rent tenants whose rental payments would be increased by 35 percent or less. The Authority updated its flat rent schedules by phasing in the increase over a 3-year period as shown in table 1.

**Table 1: Alton Housing Authority flat rent schedule**

Unit	Prior flat rent	Year 1 phase-in 10/01/2014	Year 2 phase-in 10/01/2015	Year 3 phase-in 10/01/2016
0 bedroom Alton Manor	\$240	\$291	\$342	
1 bedroom Alton Manor	\$255	\$333	\$411	
1 bedroom Alton Acres	\$265	\$338	\$410	
1 bedroom Oakwood Estates	\$275	\$343	\$410	
2 bedroom Alton Acres	\$280	\$368	\$456	\$544
2 bedroom Oakwood Estates	\$290	\$377	\$464	\$551
3 bedroom Alton Acres	\$295	\$438	\$581	\$724
3 bedroom Oakwood Estates	\$305	\$445	\$586	\$727
4 bedroom Alton Acres	\$310	\$484	\$654	\$826
4 bedroom Oakwood Estates	\$320	\$489	\$658	\$828
5 bedroom Alton Acres	\$325	\$540	\$755	\$971
5 bedroom Oakwood Estates	\$335	\$548	\$761	\$974

HUD published questions and answers related to Notice PIH 2014-12(HA), further clarifying that public housing agencies were permitted to phase in flat rent increases only on a case-by-case basis for families that were paying a flat rent at the time the new flat rents were implemented. Tenants switching to a flat rent from an income-based rent were required to pay the full flat rent amount and were not allowed to pay the lower phased-in rent. The Authority improperly allowed 13 tenants switching from an income-based rent to a flat rent since November 1, 2014, to pay the lower phased-in flat rents.

Improperly Phased-In Flat Rent Increases for Annual Recertification Tenants

The Authority improperly required 19 tenants to pay annual increases in flat rent greater than 35 percent, the maximum annual increase allowed by HUD Notice PIH 2014-12(HA). The Authority did not properly calculate the phase-in rent increases to ensure increases did not exceed 35 percent. The Authority’s phase-in schedule showed rent increases of more than 35 percent and as high as 66 percent for some unit sizes.

**Table 2: Alton Housing Authority phase-in increases**

Unit	Year 1 phase-in increase (%)	Year 2 phase-in increase (%)	Year 3 phase-in increase (%)
0 bedroom Alton Manor	21.25	17.53	
1 bedroom Alton Manor	30.59	23.42	
1 bedroom Alton Acres	27.55	21.30	
1 bedroom Oakwood Estates	24.73	19.53	
2 bedroom Alton Acres	31.43	23.91	19.30
2 bedroom Oakwood Estates	30.00	23.08	18.75
3 bedroom Alton Acres	48.47	32.65	24.61
3 bedroom Oakwood Estates	45.90	31.69	24.06
4 bedroom Alton Acres	56.13	35.12	26.30
4 bedroom Oakwood Estates	52.81	34.56	25.84
5 bedroom Alton Acres	66.15	39.81	28.61
5 bedroom Oakwood Estates	63.58	38.87	27.99

**Policies and Procedures Not Updated**

The Authority did not adequately update its policies and procedures after HUD issued new guidance. It did not incorporate the guidance from the questions and answers for Notice PIH 2014-12(HA) and did not describe the new flat rent methodology in its policies and procedures.

The Authority did not incorporate the guidance from the questions and answers for Notice PIH 2014-12(HA) into its policies and procedures. Therefore, Authority officials were not aware of the questions and answers that HUD published for Notice PIH 2014-12(HA), clarifying the requirement that phased-in rent increases were not available to former income-based tenants.

The Authority did not describe the new flat rent methodology in its policies and procedures. The Authority’s admissions and continued occupancy policy referred to its annual plan for the flat rent methodology. However, the annual plan did not specifically describe the flat rent calculation and did not mention the 35 percent limit on the annual flat rent increase. If the

Authority had used language similar to that provided in the HUD-approved significant amendment in the appendix to Notice PIH 2014-12(HA), it would have known that there is a cap of 35 percent on the annual flat rent increase.

### **Flat Rent Tenants Improperly Charged**

The Authority improperly charged flat rent tenants and will collect increased operating subsidies from HUD.

The Authority undercharged flat rent tenants by \$13,746 from November 1, 2014, to December 31, 2015, by improperly allowing 13 tenants to pay the lower phase-in rent. We calculated the undercharged rent by comparing the difference between the amount the Authority charged and the amount the Authority should have charged over our review period. It will undercharge flat rent tenants by \$28,332 during the next year if it does not correct this problem. Tenants were converted to a flat rent at different times during this period. Therefore, we calculated the future amount of undercharged rent by projecting the amount undercharged during the most recent month of our review period, December 2015 (\$2,361), over a 12-month period.

The Authority overcharged tenants by \$6,250 from November 1, 2014 to December 31, 2015, by improperly requiring 19 tenants to pay annual increases in flat rent greater than 35 percent, the maximum increase allowed by HUD. We used the same methodology to calculate the overcharged rent as the undercharged rent. The Authority will overcharge flat rent tenants by \$10,200 during the next year if it does not correct this problem. We calculated the future amount of overcharged rent by projecting the amount overcharged during the most recent month of our review period, December 2015 (\$850), over a 12-month period.

**Table 3: Tenant underpayments and overpayments**

	November 2014 – December 2015	December 2015	January – December 2016 (projection)
Tenant underpayments	(\$13,746)	(\$2,361)	(\$28,332)
Tenant overpayments	\$6,250	\$850	\$10,200

The Authority will also collect increased operating subsidies from HUD. HUD’s operating subsidy calculation is based on rental income received from tenants during prior years. The undercharged flat rent during our review period will cause HUD to calculate the Authority’s calendar years 2017 and 2018 operating subsidies based on lower rental income amounts than if the Authority had properly set its flat rents. HUD’s operating subsidies will be increased to make up for lower rental income amounts. We were not able to calculate the amount that subsidies will be overpaid because some factors of the calendar year 2017 and 2018 calculations have not been determined; however, if HUD adds the amount of undercharged tenant rent to the rental income received portion of the applicable operating subsidy calculations, it will ensure that it does not overpay operating subsidies.

### **Conclusion**

The Authority undercharged flat rent tenants by \$13,746 and will undercharge these tenants by \$28,332 during the next year if it does not correct the problem. The Authority overcharged flat rent tenants by \$6,250 and will overcharge these tenants by \$10,200 during the next year if it

does not correct the problem. In addition, the Authority will collect increased operating subsidies. These problems occurred because the Authority did not update its policies and procedures with the new flat rent requirement.

### **Recommendations**

We recommend that the Director of HUD's Chicago Office of Public Housing

- 1A. Monitor the Authority to ensure that it understands the flat rent requirements and has properly implemented them, thereby putting \$28,332 to better use over the next year.
- 1B. Include the \$13,746 in undercharged flat tenant rent to the appropriate operating subsidy calculations to ensure that it does not overpay operating subsidies.
- 1C. Require the Authority to immediately perform interim reexaminations to correct the 19 overcharged tenants' rent so they will not overpay \$10,200 over the next year.
- 1D. Require the Authority to credit the \$6,250 in overcharged flat rent to the tenants' accounts.
- 1E. Require the Authority to update its policies and procedures to describe its methodology for calculating flat rents.

# Scope and Methodology

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Our audit period generally covered November 1, 2014, through December 31, 2015. We performed our audit work from February through April 2016. We conducted onsite work at the Authority's administrative offices located at 2406 Crawford Street, Alton, IL.

To accomplish our objective, we

- Reviewed applicable HUD requirements and Authority policies;
- Reviewed the audited financial statements;
- Reviewed board minutes;
- Reviewed physical records maintained by the Authority, including flat rent schedules, utility allowance schedules, and relevant documents in the tenants' files;
- Interviewed Authority employees; and
- Interviewed HUD staff responsible for overseeing the Authority.

We used HUD's Public and Indian Housing Information Center system and a list of flat rent tenants provided by the Authority to identify a total of 53 flat rent households, representing 22 percent of the Authority's 244 total households. Due to the small number of flat rent tenants residing in the Authority's public housing units, we conducted a 100 percent review of the 53 flat rent tenant files.

We estimated the amount the Authority will undercharge and overcharge tenants over the next 12-month period. The amount that we project will be undercharged or overcharged is an illustration of the impact of the error. The actual amount may be less, but because we were not able to verify any future adjustments the Authority may make to a tenant's rent or the continued tenancy of any given tenant, we used the most recent month of underpayment and overpayment to project the impact over the next 12-month period.

We used computer-processed data from HUD's Public and Indian Housing Information Center system to assist us in sample selection. As discussed above, we supplemented this data with a listing of flat rent tenants provided by the Authority since the system's data did not have a complete list of the flat rent tenants. We verified all instances of noncompliance using supporting documentation in the sampled tenant files. We determined that the data were sufficiently reliable for the purposes of this report.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective(s). We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

# Internal Controls

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Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

- Effectiveness and efficiency of operations,
- Reliability of financial reporting, and
- Compliance with applicable laws and regulations.

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

## **Relevant Internal Controls**

We determined that the following internal controls were relevant to our audit objective:

- Policies and procedures that have been implemented to reasonably ensure that public housing flat rents comply with applicable laws and regulations.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

## **Significant Deficiency**

Based on our review, we believe that the following items are significant deficiencies:

- The Authority did not have adequate controls in place to ensure that flat rents complied with applicable laws and regulations.

# Appendixes

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## Appendix A

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**Schedule of Funds To Be Put to Better Use**

<b>Recommendation number</b>	<b>Funds to be put to better use 1/</b>
1A	\$28,332
1B	\$13,746
1C	\$10,200
1D	\$6,250
<b>Totals</b>	<b>\$58,528</b>

- 1/ Recommendations that funds be put to better use are estimates of amounts that could be used more efficiently if an Office of Inspector General (OIG) recommendation is implemented. These amounts include reductions in outlays, deobligation of funds, withdrawal of interest, costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings that are specifically identified. In this case, if the Authority properly implements the flat rent requirement, it will ensure that it puts \$28,332 to better use over the next year, and if HUD adds \$13,746 in underpaid rent to the appropriate operating subsidy calculations, it will ensure that it does not overpay operating subsidies. In addition, by crediting the accounts of tenants who overpaid and correcting their rental amount going forward, the Authority will put those amounts to better use by no longer charging tenants higher amounts than it is authorized to charge.

# Appendix B

## Auditee Comments and OIG's Evaluation

### Ref to OIG Evaluation

### Auditee Comments

### Comment 1



**COMMISSIONERS**  
Bruce Malone, Chairman  
Douglas Martin, Sr. – Diana Williams  
Shirley Miller – Greg Caffey  
Clifford Emons – Attorney

## Housing Authority City of Alton

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GREGORY DENTON – EXECUTIVE DIRECTOR

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May 16, 2016

Office of the Inspector General  
U.S. Department of Housing & Urban Development  
1222 Spruce Street, Room 9.107A  
Robert A. Young Federal Building  
St. Louis, MO 63103-2836

To Whom It May Concern,

Upon learning about the miscalculations of our Flat Rents, AHA quickly reviewed our files to determine how many residents were affected and how to correctly calculate our Flat Rent amounts. We consulted with our local HUD office to ensure that our newly calculated Flat Rents were correct.

Once we identified the residents who had been overcharged rent, we met with them individually to discuss their new lowered rent amount and the credit that they would receive due to overpayment of rent. Each resident signed an interim reexamination form and the proper paperwork was placed in their file.

For the tenants who were undercharged, we also met with them in person to discuss their new rent amount and to give them proper notice as to when the increase would take effect. Each resident signed an interim reexamination form and the proper paperwork was placed in their file. Each resident had at least 30 days' notice of their rent increase.

We are currently amending our ACOP and will have the update submitted to the June Board Meeting for approval and will be sure to include the PIH Notice and new Flat Rent calculation procedure in the new edition.

If you have any further questions or if I may be of assistance, do not hesitate to call me at 618-465-4269 Ext. 14.

Sincerely,  
  
Gregory Denton  
Executive Director

## OIG Evaluation of Auditee Comments

Comment 1 The Authority concurred with our finding and revised its flat rent schedule. While we recommend the Chicago, IL, HUD Office conduct monitoring to ensure the Authority understands the flat rent requirements and properly implements them, the updated flat rent schedule will help to ensure that the Authority does not overcharge flat rent tenants in the future. The Authority is also in the process of correcting the deficiencies identified in the report and updating its policies and procedures relating to the flat rent requirement. HUD needs to work with the Authority during the audit resolution process to ensure the recommendations are adequately addressed.

## Appendix C

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### Criteria

#### HUD Public and Indian Housing Notice 2014-12(HA)

### **2. APPLICABILITY, BACKGROUND, AND HUD INTERPRETATION OF NEW STATUTORY REQUIREMENTS**

Currently, PHAs [public housing agencies] are required to establish flat rents based on the market rent of comparable units in the private, unassisted rental market. Paragraph (2)(B)(i) of Section 3(a) of the United States Housing Act of 1937 (the Act), as amended by Section 210, establishes new parameters that PHAs must use when determining the flat rent amounts. Specifically, flat rents must now be:

- set at no less than 80 percent of the applicable Fair Market Rent (FMR); and

Section 210 also establishes that PHAs may, but are not required to lower flat rents to 80% of the applicable FMR in years when the FMR decreases from the previous year. This provision applies to the FMRs published for fiscal year 2015 and beyond. If a PHA must increase their flat rents to comply with the statutory changes, the increase shall be considered a significant amendment to the PHA Annual Plan. Please review Section 8 of this Notice which provides a detailed explanation regarding significant amendments for flat rent changes.

PHAs shall comply with the new flat rent requirements by June 1, 2014. The Department will consider PHAs to be in compliance with the new requirements if non-qualified agencies have initiated the process to amend their PHA Annual Plan, and qualified agencies have initiated the public hearing process by no later than June 1, 2014. PHAs should begin applying the new flat rent schedules to households they are recertifying and new applicants by October 31, 2014.

If a new flat rent amount for a unit will increase a family's existing rental payment by more than 35 percent, then the new flat rent amount shall be phased in as necessary to ensure that the family's existing rental payment does not increase by more than 35 percent annually. For more information, see Section 6 of this notice.

### **6. FLAT RENT INCREASE PHASE-IN REQUIREMENTS**

Section 210 of the FY [fiscal year] 14 Appropriations Act requires that if an existing tenant's rental payment would be increased by 35 percent or more as a result of changes to the flat rent amount, that the increase must be phased in such that a family would not experience an increase in their rental payment of more than 35 percent in any one year. Although Section 210 permits PHAs to increase flat rents by up to 35 percent annually, PHAs may consider any limitations on annual rent increases pursuant to state and local law. For example, some states have established annual rent increase limits of no more than 10 percent. Further, PHAs have discretion to phase-in rent increases 35 percent or less over a three-year period. For example, for a family that will

experience a rent increase of 10 percent due to the new flat rent requirements, a PHA could choose to phase in the total rent increase over three years.

In order to determine how to phase-in increases in rental payments, PHAs must:

- 1) On a case-by-case basis, at the family's next annual rent option, compare the updated flat rent amount applicable to the unit for which a family is currently paying the flat rent to the flat rent that was being paid by the family immediately prior to the annual rent option;
  - a. If the new flat rent amount would not increase a family's rental payment, the family may choose to pay either the updated flat rent amount or the previously calculated income-based rent;
  - b. If the updated flat rent amount would increase a family's rental payment, PHAs must conduct a flat rent impact analysis by multiplying the existing flat rent amount by 35 percent (or a lesser amount pursuant to state/local law) and adding that product to the flat rent amount ( $FR \times 35\% = X + FR$ ). This calculation can be done by simply multiplying the current flat rent amount by 1.35. PHAs must then compare the product of the calculation to the updated flat rent amount; and
- 2) The PHA must offer and the family may choose to pay, either the lower of the flat rents that were compared in the flat rent impact analysis or the previously calculated income-based rent.

## **Appendix to Notice PIH 2014-12(HA)**

### **Flat Rent Significant Amendment**

The [INSERT PHA NAME HERE] hereby amends its flat rent policies to comply with the statutory changes contained within, Public Law 113 – 76, the Fiscal Year 2014 Appropriation Act.

The [INSERT PHA NAME HERE] will set the flat rental amount for each public housing unit that complies with the requirement that all flat rents be set at no less than 80 percent of the applicable Fair Market Rent (FMR) adjusted, if necessary, to account for reasonable utilities costs. The new flat rental amount will apply to all new program admissions effective [INSERT DATE HERE]. For current program participants that pay the flat rental amount, the new flat rental amount will be offered, as well as the income-based rental amount, at the next annual rental option.

The [INSERT PHA NAME HERE] will place a cap on any increase in a family's rental payment that exceeds 35 percent, and is a result of changes to the flat rental amount as follows:

- Multiply the existing flat rental payment by 1.35 and compare that to the updated flat rental amount;
- The PHA will present two rent options to the family as follows:
  - the lower of the product of the calculation and the updated flat rental amount; and
  - the income-based rent.

## Notice PIH 2014-12(HA) Questions and Answers

**9. Q: Notice PIH 2014-12 requires PHAs to phase in flat rent changes that will increase a family's existing rental payment by more than 35%. Does this mean that all families—program participants and new admissions – that chose to pay flat rent will pay the same flat rent?**

A: No. The law requires that PHAs establish flat rents at no less than 80% of the applicable FMR. New families that are admitted to the program after a PHA has adopted the new flat rent do not qualify for the phased in flat rent amounts. Therefore, all new families that are admitted to the program after a PHA has implemented the new requirements must be offered the flat rent set at no less than 80% of the applicable FMR.

The phased-in requirement is available for families that are currently paying the flat rent. For those families, PHAs must assess, on a case by case basis, whether the flat rent increase would increase their current rental payment by more than 35%. Specifically, for a family that is currently paying a flat rent that is significantly below 80% of FMR, the PHA must cap the flat rent increase at 35% annually, and the total flat rent increase must be phased in.

**10. Q: Over what time period must PHAs phase in flat rents for families that will experience a rental payment increase by more than 35%?**

A: As described in question 9 above, the law requires PHAs to phase in flat rent increases at no more than 35% for families that were paying the flat rent immediately prior to the implementation of the new flat rent provisions. Through Notice PIH 2014-12, HUD required that if an existing tenant's rental payment would be increased by 35 percent or more as a result of changes to the flat rent amount, then the increase must be phased in such that a family would not experience an increase in their rental payment of more than 35 percent in any one year. HUD made a policy determination to provide PHAs a three-year period to align all flat rents at no less than 80% FMR. If an existing tenant's rental payment would be increased by less than 35%, the PHA may phase-in the flat rent increase by any percentage, provided that the flat rent reaches no less than 80% FMR by the third year. Specifically, a PHA may choose to phase in flat rent increases at 35% or less, provided that the PHA reaches 80% FMR within the three-year period.

A PHA may phase-in flat rent increases beyond the three-year period when the PHA phases-in the flat rent increase at 35% annually **and** cannot reach 80% of the applicable FMR in three years. For example, if a family is currently paying a flat rent of \$300, but 80 percent of the applicable FMR is \$800, the family's rent would be raised by 35% annually as follows: \$105 increase in year 1, \$142 increase in year 2, and \$191.45 increase in year 3. By year 3, the family would be paying a flat rent of approximately \$739 and the PHA would need another year to reach \$800 or 80% of FMR.

## HUD Public and Indian Housing Notice 2015-13(HA)

## **2. APPLICABILITY, BACKGROUND, AND HUD INTERPRETATION OF NEW STATUTORY REQUIREMENTS**

The FY 2014 Appropriations Act required PHAs to establish flat rents at no less than 80 percent of the applicable Fair Market Rent (FMR). However, if a new flat rent amount for a unit increased a family's existing rental payment by more than 35 percent, then the new flat rent amount was required to be phased in as necessary to ensure that the family's existing rental payment did not increase by more than 35 percent annually. HUD implemented these requirements through Notice PIH 2014-12, which outlined the changes in the FY 2014 Appropriations Act and provided guidance to PHAs on how to implement the new changes. Through FAQs [frequently asked questions] accompanying Notice PIH 2014-12, HUD provided flexibility to PHAs to phase in all flat rent increases over a three year period, including those increases that were 35 percent or less.

The FY 2015 Appropriations Act further amended the public housing rent requirements for flat rents. Specifically, the statute was amended to require that flat rents must be set at no less than the lower of 80 percent of:

1. the applicable fair market rental established under section 8(c) of this Act; or
2. at the discretion of the [HUD] Secretary, such other applicable fair market rental established by the Secretary that the Secretary determines more accurately reflects local market conditions and is based on an applicable market area that is geographically smaller than the applicable market area used for purposes of the applicable fair market rental under section 8(c);

A PHA may apply for an exception waiver allowing for a flat rental amount for a property that is lower than the amount outlined in the options above. The Secretary may grant such an exception if HUD determines that the fair market rent for the applicable market area does not reflect the market value of the property and the proposed lower flat rental amount is based on a market analysis of the applicable market.

The FY 2015 Appropriations Act maintained the protection that any rent increase of more than 35 percent due to the flat rent changes must be phased in as necessary.

As flat rents are fully implemented, the higher rent levels will ensure that families with higher incomes pay an appropriate market-based rent. It is an important policy goal to provide scarce public resources to those most in need of deeply affordable housing. PHAs are therefore reminded that they have the discretion, in accordance with federal law and regulations (24 CFR 960.261; FR-4824-F-02), to establish occupancy policies that include the eviction of public housing tenants who are above the income limits for eligibility to participate in public housing programs. HUD encourages PHAs to provide a balance between the important goals of supporting the sustained self-sufficiency of families with the ever increasing demand for affordable housing units among families on their waiting lists.

## **7. FLAT RENT INCREASE PHASE-IN REQUIREMENTS**

In compliance with the FY 2014 Appropriations Act, Notice PIH 2014-12 required that if an existing tenant's rental payment would be increased by more than 35 percent as a result of changes to the flat rent amount, the increase must be phased-in such that a family would not experience an increase in their rental payment of more than 35 percent in any one year. Through Notice PIH 2014-12, HUD provided additional flexibility that would permit PHAs to phase in all rent increases resulting from the new flat rent requirements over a three year period. However, the FY 2015 Appropriations Act provides PHAs additional flexibility to establish flat rents at lower amounts, thereby eliminating the need for the three-year phase-in of all flat rent increases. Therefore, pursuant to this Notice, the only flat rent increases that may be phased-in are those where a family's rent will increase by more than 35 percent. PHAs that began phase-ins for families with rent increases at 35 percent or less do not need to take any immediate action to update the flat rents for such families, but at the family's next annual rent option, the requirements outlined below shall apply.

In order to determine how to phase-in increases in rental payments, PHAs must:

- 1) On a case-by-case basis, at the family's next annual rent option, compare the updated flat rent amount applicable to the unit to the rent that was being paid by the family immediately prior to the annual rent option;
  - a. If the new flat rent amount would not increase a family's rental payment by more than 35 percent, the family may choose to pay either the updated flat rent amount or the previously calculated income-based rent;
  - b. If the PHA determines that the updated flat rent amount would increase a household's rental payment by more than 35 percent, the family may choose to pay the phased-in flat rent amount resulting from the flat rent impact analysis or the previously calculated income-based rent.