

PUBLIC HOUSING RENT

Rent Choice

In the Public Housing program, families have the choice of paying either an income-based rent or a market-based Flat Rent which cannot be lower than 80% of the HUD-determined Fair Market Rent for the area. The Flat Rent essentially is a cap rent which provides an incentive for higher income families to remain in Public Housing. If their calculated income-based rent is higher than the PHA-established Flat Rent, they will opt for the Flat Rent. In addition, if the family finds itself in a hardship position, rent may be reduced to the Minimum Rent or zero rent under a hardship exemption situation.

The PHA must provide sufficient information for families to make an informed choice. This information must include the PHA's policy (as stated in its Admissions and Continued Occupancy Policy) on switching due to financial hardship and the dollar amount of the rent under each option. The Flat Rent option should be offered at each annual reexamination and the option selected should be documented in writing.

Income Based Rent

Formula for Total Tenant Payment

Under the income-based rent formula as established by regulations, a family's Total Tenant Payment is the highest of:

- 30 percent of adjusted monthly income or
- 10 percent of monthly income or
- Welfare Rent (in states where the welfare payment includes a designated portion for housing costs) NOT APPLICABLE IN TEXAS

But never less than the

- Minimum Rent

Utility Allowances

Utility allowances are provided to families paying income-based rent when the cost of utilities is not included in the rent.

Utilities include gas, electricity, and fuel for heating, water or sewerage and solid waste disposal for an assisted unit. In addition, if the PHA does not furnish a range and refrigerator, the resident must be granted a utility allowance for the range and refrigerator they provide. Telephone and cable television are not considered utilities.

PHAs must develop a Schedule of Utility Allowances, by bedroom size, and review it annually.

- The amount of the utility allowance is equal to the estimate of the monthly cost of the reasonable consumption of utilities and other services for the unit by an energy-conservative household of modest circumstances.
- Utility allowance amounts will vary by the rates in effect, size and type of unit (Single family, duplex, row, town home), climatic location and sitting of the unit, type of construction, energy efficiency of the dwelling unit, and other factors related to the physical condition of the unit
- The allowance amount must be sufficient to maintain the requirements of a safe, sanitary, and healthful living environment.
- Utility allowances may have to be adjusted as a reasonable accommodation to residents with disabilities who, because of the special needs of a disabled family member have to use higher than average amounts of utilities.

Tenant Rent

The rent paid by the family to the PHA is the Total Tenant Payment minus any utility allowances for utilities not provided by the PHA and applicable to the size unit the family is leasing.

Utility Reimbursements

The amount, if any, by which the utility allowance for a unit exceeds the Total Tenant Payment must be provided as a utility reimbursement, either directly to the family or to the utility supplier on the family's behalf each month. If the PHA elects to pay the utility provider directly, they must notify the family of the amount of the reimbursement paid.

According to PIH 2016-05, the PHA may adopt a policy for making quarterly payments of small reimbursements. Quarterly payments are permitted when the monthly reimbursement amount is \$15 or less. Those greater than \$15 must still be paid on a monthly basis. In the event a family leaves the program in advance of its next quarterly reimbursement, the PHA must reimburse the family for a prorated share of the applicable reimbursement. PHAs exercising this option must have a hardship policy in place for tenants.

Example 1: No Reimbursement

	\$120	Total Tenant Payment
-	75	Utility Allowance
	\$ 45	Rent Paid to the PHA

Example 2: Utility Reimbursement

	\$120	Total Tenant Payment
-	135	Utility Allowance
	\$ -10	

Utility Reimbursement = \$10

Other Income Based Rent Systems

According to the regulations the PHA rent policies may specify that the PHA will use percentage of family income or some other reasonable system to determine income-based rents. The PHA rent policies may provide for depositing a portion of tenant rent in an escrow or savings account, for imposing a ceiling on tenant rents, for adoption of permissive income deductions (24 CFR §5.611(b)), or for another reasonable system to determining the amount of income-based tenant rent.

Flat Rents

Flat Rents are based on the market value of Public Housing units in the private unassisted rental market. Flat Rent is the unsubsidized amount any landlord could charge and lease the unit promptly after preparation for occupancy

Setting Flat Rents Properly

To calculate a Flat Rent a PHA is required to take into consideration the following for each property:

- Location (include the value and quality of neighboring housing)

- Quality (need for rehabilitation)
- Unit size (both number of bedrooms and square footage)
- Unit type (generally single family units are valued the highest, with semi-detached and town home next, then walk-up or garden-type apartments; elevator buildings are usually considered a negative for family housing, although that is not necessarily the case in mixed population housing)
- Age of property
- Amenities at the property and in immediate neighborhood (e.g., laundry facilities, child care, recreation room, play areas, open space, parking, public transportation, schools, shopping, etc.)
- Housing services provided
- Maintenance provided by the PHA
- Utilities provided by the PHA

The above list is identical to the criteria used to determine rent reasonableness in the Housing Choice Voucher Program. Under that program PHAs are to make the rent reasonableness determination using the same factors as those listed for the Flat Rents.

- PHAs can use rent reasonableness data to establish Flat Rents for their units if they have Section 8 units located in the same neighborhoods as their Public Housing properties.
- PHAs might also choose to have the rents established through other forms of market analysis using census data, surveys, and the expertise of market analysts or appraisers.
- Documentation on the method used to determine Flat Rents must be retained by the PHA.
- It is important that Flat Rents be set at levels that encourage higher income families to stay but not set so high that families decide to move because cheaper rental housing is available on the private market. Flat Rents that are set too high can result in vacancy problems, as families opt to pay the more competitive market rent.
- Flat Rents that are appropriately set can help rent an otherwise hard to rent property.
- There is no utility allowance or reimbursement with Flat Rents. Instead, the PHA

takes the utility payment into consideration in setting the Flat Rents. In two otherwise identical properties, the Flat Rent would be higher for the property with PHA supplied utilities and lower for the property with tenant-paid utilities.

- PHAs must establish Flat Rents at no less than 80% of the applicable Fair Market Rent (FMR) or the Small Area FMR published by HUD (reduced by applicable utility allowances where tenants pay their utilities directly). If a SAFMR has not been determined for an area, PHA may use 80% of the unadjusted rent, if one has been determined for the area. (see PIH 2017-23)
- Where neither 80% of the FMR nor 80% of the SAFMR produces a workable Flat Rent, the PHA may apply to HUD for an exception Flat Rent.
 - PHA must demonstrate, through the submission of a market analysis, that those rent options are not reflective of the unit's market value
 - PHA must wait for written HUD approval before implementing exception Flat Rents
 - PHAs that use exception Flat Rents must conduct a new market analysis and obtain HUD approval annually.
 - If HUD denies the request, PHA may appeal the decision in writing to their HUD Field Office no later than 30 days after notification of denial.
 - If the appeal is denied, PHA must immediately set Flat Rents at no less than the lower of 80% of FMR or SAFMR.

The PHA must revise, if necessary, the Flat Rent amount for a unit no later than 90 days after HUD issues new FMRs.

If a new Flat Rent would cause a family's rent to increase by more than 35 percent, the family's rent increase must be phased in at 35 percent annually until such time that the family chooses to pay the income-based rent or the family is paying the new Flat Rent.

Annual Review

PHAs should review their Public Housing Flat Rents as often as necessary, but at least annually to ensure that Flat Rents continue to mirror market rent values and are established at no less than 80% of FMR. In some PHA neighborhoods, where private disinvestment is occurring, this could result in a reduction of Flat Rents. Conversely, if

public and private investment is increasing rental values near a Public Housing property, Flat Rents would rise.

Residents paying Flat Rents would not have their rents adjusted (up or down) until their annual reexamination.

Switching from Flat Rent to Income-Based Rent Because of Hardship

At any time families are unable to pay Flat Rents because their situations have changed and they are now experiencing financial hardship, they can opt to switch to an income-based rent. Once they go on income-based rent, they cannot be put back on Flat Rent until their next re-examination.

- The PHA must adopt written policies on switching from one type of rent to another
- If the PHA determines that a financial hardship exists, the PHA must immediately allow the requested switch
- The time period for the PHA to determine that a hardship exists should be spelled out in the ACOP
- PHA policies on hardship must include, but are not limited to, the following changes in circumstance:
 - Decreases in income including:
 - Layoff from work
 - Loss or reduction of employment
 - Death in the family
 - Reduction or loss of earnings or other assistance
 - Increase in expenses including:
 - Medical costs
 - Birth of a child
 - Child care
 - Transportation
 - Education

Reexamination of Flat Rent Families

If a family chooses a flat rent, the PHA is required to conduct a reexamination of income at least once every three years, although the PHA may opt to do so more often.

- PHAs must conduct annual reexaminations of family composition, community service, self-sufficiency, and other criteria related to continued occupancy.
- PHAs are required to provide an income-based rent amount only in the year that a reexamination is conducted or if the family specifically requests it and submits updated income information.
- PHAs must continue to obtain a Form HUD 9886 each year.

Ceiling Rents

History

Those PHAs with ceiling rents in effect at the time flat rents went into effect (October 1, 1999) were permitted to use the ceiling rents as a substitute for flat rents until September 30, 2002. After that time period, PHAs were required to adjust these ceiling rents to the level of flat rents. PHAs could continue to impose a ceiling on tenant rents as an income-based option, but again, these rents had to be at the level of flat rents.

- Ceiling rents were reinstated as an option because they foster upward mobility and income-mixing. Increases in income do not affect the family since the rent is capped. (see 24 CFR § 960.253)
- Ceiling rents are typically “internal” to the PHA, absent any market survey. They do not include factors such as location and amenities, which are always considered when apartment rents are established in the private market.

Current Use of Ceiling Rents

Once a family on Flat Rent switches to income-based rent because of financial hardship, they must wait until their next annual reexamination to switch back to Flat Rent. Some PHAs establish a Ceiling Rent to cover situations where incomes of these families increase before the annual reexamination date and the families cannot be placed back on Flat Rents until the reexamination. If the PHA has Ceiling Rents, the family can be placed on a Ceiling Rent until the annual reexamination.

The Ceiling rent should be the same amount as the Flat Rent with utility allowance added on, if the family pays utilities. Utility allowances are deducted from Ceiling Rents, so, for example, if the PHA's Flat Rent is \$400 and the family pays the utilities and the applicable utility allowance is \$50, the Ceiling Rent would be set at \$450. The amount paid by the family to the PHA would essentially be the same as if they were back on Flat

Rent. At next reexamination, the family would officially be placed back on Flat Rent.

Pro-Rated Rents for Mixed Families

A mixed family is eligible for prorated assistance. Prorated assistance is a calculation of subsidy based on the number of members who are citizens or have eligible immigration status. (See worksheet on page 74)

RENT CALCULATION WORKSHEET Public Housing

Name _____ Date _____

Calculation of Income-Based Rent

- | | |
|--|----------|
| 1. TOTAL ANNUAL GROSS INCOME
(Line 1, Adjusted Income worksheet) | \$ _____ |
| 2. ADJUSTED INCOME
(Line 8, Adjusted Income Worksheet) | \$ _____ |
| 3. Monthly GROSS INCOME (line 1 divided by 12) | \$ _____ |
| 4. 10% of Monthly GROSS Income (line 3 x .10) | \$ _____ |
| 5. Monthly Adjusted Income (line 2 divided by 12) | \$ _____ |
| 6. 30% of Monthly Adjusted Income (line 5 x .30) | \$ _____ |
| 7. Minimum Rent | \$ _____ |
| 8. TOTAL TENANT PAYMENT (TTP)
(enter whichever is greatest: line 4, 6, or 7) | \$ _____ |
| 9. UTILITY ALLOWANCE (If applicable) | \$ _____ |
| 10. TENANT RENT PAYABLE TO PHA (line 8 - line 9)
(Enter "0" if amount is a negative number and go to line 11) | \$ _____ |
| 11. UTILITY REIMBURSEMENT (line 9 - line 8) | \$ _____ |

FAMILY'S CHOICE OF RENT:

- Flat Rent: _____
- Income-Based Rent _____

Initials of PHA Representative _____

Initials of Supervisor/ED _____

**WORKSHEET FOR PRORATED RENT FOR
CITIZEN/NONCITIZEN MIXED FAMILIES
(Public Housing)**

1. Enter Total Rent Payable to PHA \$ _____
(line 10 from Rent Computation Worksheet)

2. Enter Flat Rent Applicable to Unit \$ _____

3. Enter Maximum Subsidy for which Family qualifies \$ _____
(line 2 - line 1)

4. Enter Total Number of Family Members _____

5. Enter Maximum Subsidy per Family Member \$ _____
(line 3 divided by line 4)

6. Enter Number of Eligible Family Members _____
(with citizenship or eligible immigration status)

7. Enter Amount of Subsidy for Which Family is Eligible \$ _____
(line 6 x line 5)

8. Enter Family's Prorated Rent \$ _____
(line 2 - line 7)

Initials of PHA Representative _____

Initials of Supervisor/ED _____

