

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**24 CFR Parts 982 and 983**

[Docket No. FR-4055-F-01]

RIN 2577-AB64

Office of the Assistant Secretary for Public and Indian Housing; Section 8 Tenant-Based Programs: Technical Amendments**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.**ACTION:** Final rule; technical amendments.

SUMMARY: The purpose of this document is to make technical amendments to the final rule governing the tenant-based rental certificate and voucher programs. These technical amendments are necessary to add provisions that were inadvertently omitted from one section of the earlier final rule, and to clarify the original intent of certain other provisions. These amendments have the effect of clarifying the regulations for these programs.

EFFECTIVE DATE: July 1, 1996.

FOR FURTHER INFORMATION CONTACT: Madeline Hastings, Associate Deputy Assistant Secretary for the Office of Public and Assisted Housing Operations, Room 4204, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410-7000, telephone (202) 708-1842 (voice) [not a toll-free telephone number]. Hearing or speech-impaired individuals may access that office by text telephone by dialing 1-800-877-8339 to use the Federal Information Relay Service. Copies of this document will be made available on tape or large print for those with impaired vision that request them. They may be obtained at the above address.

SUPPLEMENTARY INFORMATION:

I. Background

A. History of Rule

There were two principal rules issued concerning the Section 8 Certificate and Voucher programs in the last two years: The rule governing admission requirements, establishing subparts A and E, published on July 18, 1994 (59 FR 36662) and the rule fleshing out part 982 by establishing subparts B-D and G-L, published on July 3, 1995 (60 FR 34660). Since their publication, it has come to the attention of the Department that several changes that had been intended to be included in these rules

were omitted. These changes are being made in this final rule.

B. Changes to Rule

Section 982.54, dealing with the administrative plan, is modified to add provisions to the administrative plan that were inadvertently omitted in the final rule. While these policies are clearly stated in other sections of the final regulations, these are policies on matters for which the HA has discretion to establish local policies and, therefore, must be included in the administrative plan.

Language in §§ 982.158, 982.202, 982.205, 982.301, 982.307, 982.353, 982.355, 982.401, 982.451, and 982.551 is revised to clarify original intent. In addition, a new paragraph (e)(4) is added to § 982.355 to provide that the administrative fee may be reduced as a sanction for noncompliance with portability requirements, consistent with the regulatory sanction for noncompliance with other HA program responsibilities.

The only change to part 983 is to correct a typographical error found in § 983.203.

II. Justification for Final Rulemaking

HUD generally publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking in 24 CFR part 10. However, part 10 provides for exceptions to the general rule if the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest" (24 CFR 10.1). HUD finds that good cause exists to publish this rule for effect without first soliciting public comment. HUD believes that it is unnecessary and contrary to the public interest to delay the effectiveness of the rule for public comment, since the rule merely makes technical and clarifying changes.

III. Other Matters

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities (or any other entities), since it merely makes technical amendments.

Environmental Impact

A Finding of No Significant Impact with respect to the environment was made in accordance with HUD

regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) with respect to the original Part 982 issued in 1994. This Finding is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that this rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government, since it only makes technical amendments.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule will not have the potential for significant impact on family formation, maintenance, or general well-being, and thus is not subject to review under the Order.

List of Subjects

24 CFR Part 982

Grant programs—housing and community development, Housing, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 983

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

Catalog

The catalog of Federal Domestic Assistance numbers for the programs affected by this rule are 14.855 (Vouchers), 14.856 (Moderate Rehabilitation), and 14.857 (Certificates).

Accordingly, parts 982 and 983 of title 24 of the Code of Federal Regulations, are amended as follows:

PART 982—SECTION 8 TENANT-BASED ASSISTANCE: UNIFIED RULE FOR TENANT-BASED ASSISTANCE UNDER THE SECTION 8 RENTAL CERTIFICATE PROGRAM AND THE SECTION 8 RENTAL VOUCHER PROGRAM

1-3. The authority citation for part 982 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

§ 982.54 [Amended]

4. Section 982.54(d) is amended as follows:

a. By adding to paragraph (d)(1) after the word "preferences" the phrase "(see §§ 982.202(b)(2) and 982.208(b)), procedures for removing applicant names from the waiting list."

b. By removing from paragraph (d)(15) the word "and" after the semicolon;

c. By removing from paragraph (d)(16) the period at the end of the sentence and adding in its place a semicolon; and

d. By adding new paragraphs (d)(17), (d)(18) and (d)(19), to read as follows:

§ 982.54 Administrative plan.

* * * * *

(d) * * *

(17) Interim redeterminations of family income and composition;

(18) Restrictions, if any, on the number of moves by a participant family (see § 982.314(c)); and

(19) Approval by the Board of Commissioners or other authorized officials to charge the administrative fee reserve.

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5. In § 982.158, paragraph (d) is revised to read as follows:

§ 982.158 Program accounts and records.

* * * * *

(d) The HA must prepare a unit inspection report.

* * * * *

§ 982.202 [Amended]

6. In § 982.202, the heading of paragraph (a) is revised to read "Waiting list admissions and special admissions."

7. In § 982.202, the second sentence of paragraph (b)(2) is revised to read as follows:

§ 982.202 How applicants are selected: General requirements.

* * * * *

(b) * * *

(2) * * * However, the HA may target assistance for families who live in public housing or other federally assisted housing, or may adopt a HUD-approved residency preference (see § 982.208).

* * * * *

8. In § 982.205, the section heading and paragraph (a)(1) are revised to read as follows:

§ 982.205 Waiting list: Single list; area covered.

(a) * * *

(1) An HA must use a single waiting list for admissions to its tenant-based certificate and voucher programs. The HA may use a separate waiting list for such admissions for an area not smaller than a county or municipality.

* * * * *

§ 982.301 [Amended]

9. In § 982.301, paragraph (b) is amended as follows:

a. Paragraph (b)(4) is removed and the remaining paragraphs are redesignated (b)(4) through (b)(16); and

b. In redesignated paragraph (b)(10), the word "HUD" is removed and the word "HUD-required" is added in its place.

§ 982.307 [Amended]

10. In § 982.307, paragraph (b)(1)(i) is amended by adding "and prior" after the word "current".

§ 982.353 [Amended]

11. In § 982.353(b), the first sentence is amended by removing the reference to "paragraph (c)" and adding in its place a reference to "paragraph (c) or (d)".

12. Section 982.355 is amended as follows:

a. Paragraph (b)(2) is revised;

b. A new paragraph (b)(3) is added;

c. A new sentence is added at the end of paragraph (e)(3);

d. The third sentence of paragraph (e)(5) is removed; and

e. Paragraph (e)(4) is revised, to read as follows:

§ 982.355 Portability: Administration by receiving HA.

* * * * *

(b) * * *

(2) If the family was receiving assistance under the initial HA certificate program, but is ineligible for admission to the voucher program, a receiving HA must provide continued assistance under the certificate program. If the family was receiving assistance under the initial HA voucher program, but is ineligible for admission to the certificate program, a receiving HA must provide continued assistance under the voucher program.

(3) If a receiving HA is absorbing the family into its own program (i.e., providing assistance without billing the initial HA), the receiving HA has the choice of assisting the family under either the certificate or voucher program. If a receiving HA is not

absorbing the family into its own program, the receiving HA must assist the family under the same program (certificate program or voucher program) as the initial HA.

* * * * *

(e) * * *

(3) * * * If both HAs agree, the HAs may negotiate a different amount of reimbursement.

(4) HUD may reduce the administrative fee to an initial or receiving HA if the HA does not comply with HUD portability requirements.

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13. In § 982.401, paragraph (j)(3)(iv)(B) is revised to read as follows:

§ 982.401 Housing quality standards (HQS).

* * * * *

(j) * * *

(3) * * *

(iv) * * *

(B) The entrance and hallway providing access to a unit in a multi-unit building; and

* * * * *

§ 982.451 [Amended]

14. In § 982.451, the third sentence of paragraph (c)(5) is amended by adding "another source is" after the word "unless".

15. In § 982.551, paragraph (h)(2) is amended by adding a sentence at the end to read as follows:

§ 982.551 Obligations of participant.

* * * * *

(h) * * *

(2) * * * No other person [i.e., nobody but members of the assisted family] may reside in the unit (except for a foster child or live-in aide as provided in paragraph (h)(4) of this section).

PART 983—SECTION 8 PROJECT-BASED CERTIFICATE PROGRAM

16. The authority citation for part 983 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

§ 983.203 [Amended]

17. In § 983.203(a)(5), the word "Has" is removed and the word "HAs" is added in its place.

Dated: May 10, 1996.

Michael B. Janis,
General Deputy Assistant Secretary for Public and Indian Housing.

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