

# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## 24 CFR Parts 248, 791, 792 and 982

[Docket No. FR-4428-I-01]

RIN 2577-AB91

### Section 8 Tenant-Based Assistance; Statutory Merger of Section 8 Certificate and Voucher Programs

AGENCY: Office of the Secretary, HUD.

ACTION: Interim rule.

**SUMMARY:** This interim rule amends the regulations for the Section 8 tenant-based rental voucher program. These amendments implement amendments of the United States Housing Act of 1937 by the Quality Housing and Work Responsibility Act of 1998 and related changes. The rule provides for the complete merger of the Section 8 tenant-based Certificate and Voucher programs, into a new Housing Choice Voucher Program.

**DATES:** *Effective date:* August 12, 1999. *Comments due date:* Comments on the interim rule and the proposed information collection requirements are due on or before: July 13, 1999.

**ADDRESSES:** Interested persons are invited to submit written comments regarding this interim rule to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address. Facsimile (FAX) comments will not be accepted.

**FOR FURTHER INFORMATION CONTACT:** Gerald J. Benoit, Office of Public and Indian Housing, Department of Housing and Urban Development, Room 4210, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708-0477 (this is not a toll-free number). Hearing or speech impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

#### SUPPLEMENTARY INFORMATION:

#### I. Section 8 Tenant-Based Program Statutory Provisions Implemented in this Rule

This interim rule implements most of the Section 8 tenant-based program provisions contained in the Quality Housing and Work Responsibility Act of 1998 (Title V of the FY 1999 HUD Appropriations Act; Pub. L. 105-276,

approved October 21, 1998; 112 Stat. 2461) (the "1998 Act"). Section 502 of the 1998 Act states that a purpose of the legislation is "consolidating the voucher and certificate programs for rental assistance under Section 8 of the United States Housing Act of 1937 (the "USH Act" (42 U.S.C. 1437f)) into a single market-driven program that will assist in making tenant-based rental assistance under such section more successful at helping low-income families obtain affordable housing and will increase housing choice for low-income families." Of particular significance, this rule implements the merger of the Section 8 tenant-based certificate and voucher programs (section 545 of the 1998 Act, amending 42 U.S.C. 1437f(o)).

#### A. Description of the Housing Choice Voucher Program implemented by this rule

This rule implements provisions of the 1998 Act which will complete merger of the Section 8 certificate and voucher programs into a single new Section 8 voucher program (authorized under Section 8(o) of the USH Act, 42 U.S.C. 1437f(o)), entitled the Housing Choice Voucher Program. HUD has previously promulgated regulations (known as the "conforming rule") which combined and conformed rules for Section 8 tenant-based assistance to the extent permitted by prior law. The Housing Choice Voucher Program has features of the previously authorized certificate and voucher programs, plus new features. The following summarizes major features of the Housing Choice Voucher Program:

1. *Payment standards.* The subsidy amount is based on a payment standard set by the Public Housing Agency (PHA) anywhere between 90% to 110% of the HUD-published fair market rent (FMR). HUD may approve payment standards lower than 90% of FMR and payment standards higher than 110% of FMR. Prior HUD-approved area exception rents will continue to apply in the new voucher program (unless withdrawn or modified by HUD). HUD may require PHA payment standard changes because of incidence of high rent burdens (Section 8(o)(1)(B), (D) and (E) of the USH Act; 42 U.S.C. 1437f(o)(1)(B), (D) and (E); 24 CFR 982.503).

2. *Tenant payment.* A family renting a unit below the payment standard pays as gross rent the highest of: 30% of monthly adjusted income, 10% of monthly income (gross income), the welfare rent (in States where the welfare payment is adjusted in accordance with actual housing costs), or the PHA-established statutory minimum rent. There is no voucher "shopping

incentive" (for a family that rents a unit below the payment standard). A family renting a unit above the payment standard pays the highest of 30% of monthly adjusted income, 10% of monthly income, the welfare rent, or minimum rent, plus any rent above the payment standard (Section 8(o)(2) (A) and (B) of the USH Act, 42 U.S.C. 1437f(o)(2) (A) and (B); § 982.506(b)).

3. *Maximum initial rent burden.* A family must not pay more than 40% of adjusted income for rent when the family first receives Section 8 tenant-based assistance for occupancy of a particular unit. This new requirement only applies for a family that initially receives tenant-based assistance for occupancy of a unit after the effective date of this rule (called the "merger date"). However, the maximum initial rent burden requirement is not applicable if the family stays in the same unit where the family initially received certificate or voucher assistance for occupancy of the unit before the effective date of this rule. The maximum initial rent burden requirement is applicable each time a participant moves to a new unit. (Section 8(o)(3) of the USH Act, 42 U.S.C. 1437f(o)(3); § 982.508.)

4. *Income limits.* Eligibility is limited to a:

- a. Very low-income family;
- b. Low-income family continuously assisted under the public housing, Section 23, or Section 8 programs;
- c. Low-income family that is a nonpurchasing tenant in certain homeownership programs;
- d. Low-income or moderate-income family that is displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing as defined at 24 CFR 248.101; or
- e. Low-income family that meets PHA-specified criteria. (Section 8(o)(4) of the USH Act, 42 U.S.C. 1437f(o)(4); § 982.201(a)(1) of the regulations.)

5. *Applicant selection.* PHA applicant selection preferences must be based on local housing needs and priorities. In determining the preferences, the PHA must use "generally accepted data sources" including public comments on the PHA plan and the Consolidated Plan. PHAs are urged to consider adopting admission preferences for victims of domestic violence (Section 8(o)(6)(A) of the USH Act, 42 U.S.C. 1437f(o)(6)(A); § 982.208).

6. *Optional PHA screening of applicants.* Although the screening and selection of tenants will remain the function of the owner, the PHA may elect to screen applicants in accordance with any HUD requirements (Section

8(o)(6)(B) of the USH Act, 42 U.S.C. 1437f(o)(6)(B); § 982.307(a)(1)).

7. *Optional PHA disapproval of owners.* The PHA may refuse to enter into new Section 8 Housing Assistance Payment (HAP) contracts with owners who refuse (or have a history of refusing) to evict families for drug-related or violent criminal activity, or for activity that threatens the health, safety or right of peaceful enjoyment of the (1) premises by tenants, PHA employees or owner employees, or (2) the residences by neighbors (Section 8(o)(6)(C) of the USH Act, 42 U.S.C. 1437f(o)(6)(C); § 982.306(c)(5)).

8. *Initial lease term.* The PHA may approve an initial lease term of less than 1 year if a lease of less than 1 year is prevailing local practice and the PHA determines that the shorter term will improve housing opportunities for the family (Section 8(o)(7)(A) of the USH Act, 42 U.S.C. 1437f(o)(7)(A); § 982.309(a)).

9. *Lease form and content.* The lease form must be in the standard form used in the locality by the owner. The lease must contain terms that are consistent with State and local law, and that apply generally to unassisted tenants in the same property. The HAP contract and the lease must contain the HUD prescribed tenancy addendum (Section 8(o)(7)(B) and (F) of the USH Act, 42 U.S.C. 1437f(o)(7)(B) and (F); § 982.308).

10. *HQS.* Units must pass the federally established HQS or substitute local housing codes or codes adopted by PHAs. Substitute local housing codes or codes adopted by PHAs: (a) cannot severely restrict housing choice; and (b) must meet or exceed the HQS (unless HUD approves a lower standard that does not adversely affect the health or safety of families, and will significantly increase affordable housing access and expand housing opportunities) (Section 8(o)(8)(B) of the USH Act, 42 U.S.C. 1437f(o)(8)(B); § 982.401(a)(4)).

11. *Fifteen calendar day initial HQS inspection deadline.* PHAs with 1,250 or fewer tenant-based Section 8 units must conduct initial HQS inspections within 15 days after receipt of an inspection request from the family and owner. PHAs with more than 1,250 tenant-based Section 8 units must conduct initial HQS inspections within a "reasonable period" of the family's and owner's inspection request (Section 8(o)(8)(C) of the USH Act, 42 U.S.C. 1437f(o)(8)(C); § 982.305(b)(2)).

12. *PHA penalties for late payment of housing assistance to owners.* In the future, the HAP contract will provide for penalties against the PHA for late payment of the housing assistance payment to the owner. Any late

payment penalties may only be imposed in accordance with generally accepted practices in the local housing market governing penalties for late payment of rent by a tenant. For example, the PHA may be required to pay a late fee to an owner if the housing assistance payment is not paid by the tenth day of the month if it is local practice that an unassisted tenant is charged a late fee when the rent has not been paid in full by the tenth day of each month. A late payment fee may only be paid from the PHA's administrative fee income (including available amounts in the HA administrative fee reserve). The PHA is not obligated to pay any late fee if HUD determines that the late payment is due to factors beyond the control of the PHA (e.g., late receipt of the Section 8 funds from Treasury). The rule also provides that the PHA may add HAP contract provisions which define when the HAP payment by the PHA is deemed received by the owner (e.g., upon mailing by the PHA or actual receipt by the owner). (Section 8(o)(10)(D) and (E) of the USH Act, 42 U.S.C. 1437f(o)(10)(D) and (E); § 982.451(b)(5)).

13. *HQS inspections and rent reasonableness determinations for PHA-owned units.* The local government or another independent entity approved by HUD must conduct HQS inspections and rent reasonableness determinations for PHA-owned units leased by voucher holders. The PHA must pay any expenses associated with the performance of such inspections and rent determinations. The PHA and the independent agency may not charge the family any fee or charge for the services provided by the independent agency. The HA may use administrative fee income to compensate the independent agency for its services, but may not use other program receipts for this purpose (Section 8(o)(11) of the USH Act, 42 U.S.C. 1437f(o)(11); § 982.352(b)).

14. *Subsidy amount for manufactured homeowners leasing pads.* The subsidy amount for expenses associated with pad leasing by a mobile home owner are revised to mirror the subsidy calculation method for families leasing "regular" units (Section 8(o)(12) of the USH Act, 42 U.S.C. 1437f(o)(12); § 982.623).

15. *Income Targeting.* Not less than 75% of new admissions to the tenant-based voucher assistance program must have incomes at or below 30% of the area median income. Other admissions generally must be at or below 80% of the area median. If two or more PHAs have identical jurisdiction, those PHAs must jointly meet the targeting goals (section 513 of the 1998 Act; § 982.201(a)(2) of the regulations).

16. *Section 8 PHA definition.* For the administration of tenant-based assistance only, a "PHA" includes:

- a. A consortia of PHAs,
- b. A nonprofit entity administering certificates or vouchers under a contract with a PHA or HUD on enactment of the 1998 Act (on October 21, 1998); or
- c. For any area outside the jurisdiction of a PHA that is administering a tenant-based program, or where HUD determines that such PHA is not administering the program effectively, a private non-profit entity or public body that would otherwise lack jurisdiction to administer the program in such area (section 546 of the 1998 Act; definition of "public housing agency" at § 982.4 of the regulations).

17. *Section 8 "endless lease" and owner termination notices.* The "endless lease" provision and the 90-day owner termination notice are permanently repealed (section 549 of the 1998 Act; revisions to §§ 982.310 and 982.454).

18. *Technical and conforming amendments including elimination of Section 8 SRO approvals.* The requirements for a HUD determination of a significant demand for SROs, PHA and local government approval of SRO use, and a PHA and local government certification that the SRO meets local SRO health and safety standards have been eliminated (section 550 of the 1998 Act; revisions to § 982.602).

19. *Portability.* The 1998 Act grants the statutory right of nationwide participant portability to the jurisdiction of any PHA that is administering the Section 8 voucher program. This right was previously established by HUD's program regulation. PHAs may opt to require applicants who were nonresidents at the time of application to live in the PHA's jurisdiction during the first year. PHAs must not issue a participant a new voucher for a portable move if the family has moved out of the family's unit in violation of the lease (section 553 of the 1998 Act; § 982.353).

20. *Elimination of "take-one, take-all" provision.* The "take-one, take-all" provision is permanently eliminated. This provision required that an owner who entered into a Section 8 HAP contract on behalf of any tenant in a multifamily housing project could not refuse to lease otherwise affordable units in all multifamily projects of the owner if the reason for the refusal was that the family was a certificate or voucher holder (section 554 of the 1998 Act permanently repeals Section 8(t) of the USH Act, 42 U.S.C. 1437f(t); this rule therefore removes the regulatory provision (prior § 982.457) that recited the prior take-one-take-all statutory requirement).

21. *Intellectual property rights.* The 1998 Act prohibits use of program receipts to indemnify PHA contractors or subcontractors against costs associated with any judgment of infringement of intellectual property rights (section 510 of the 1998 Act; § 982.157).

#### *B. Transition to the New Housing Choice Voucher Program*

The majority of changes necessary to merge the certificate and voucher programs into a single tenant-based program were accomplished by issuing the Section 8 certificate and voucher conforming rule published in three phases: in 1994, 1995, and 1998. The remaining significant differences between the certificate and voucher programs are the subsidy amount, the maximum allowable initial contract rent levels and contract rent adjustments. The treatment of these program differences in the transition of pre-merger certificates and pre-merger vouchers to the final merger of the two programs, as enacted by Congress, is addressed below.

1. *Requirement to only enter HAP contracts under the Housing Choice Voucher Program in the future, and treatment of outstanding pre-merger certificates.* The new regulation becomes effective 90 days from publication of this rule. This date is called the "merger date" (§ 982.4).

This rule provides that on and after the merger date, a PHA may only enter HAP contracts under the Housing Choice Voucher Program implemented by this rule. If an applicant family or a participant wishing to move has been issued a pre-merger certificate, the PHA may opt to: (a) let the family continue to search for housing during the term of the pre-merger certificate; or (b) issue the family a voucher under the Housing Choice Voucher Program for a new term.

In any event, the PHA may only enter into HAP contracts under the Housing Choice Voucher Program on and after the merger date. Thus, an applicant or participant family who received a pre-merger certificate must be assisted under the Housing Choice Voucher Program if a tenant-based HAP contract has not been executed on their behalf prior to the merger date.

2. *Treatment of pre-merger voucher assistance under the Housing Choice Voucher Program.* On the merger date, participants in the pre-merger voucher program automatically become participants in the Housing Choice Voucher Program. Existing voucher contracts provide that the housing assistance payment must be calculated in accordance with HUD requirements.

However, the HAP contracts do not specify the amount of or method of computing the housing assistance payment.

In accordance with § 982.502 of the interim rule, the method of calculating subsidy under the Housing Choice Voucher Program is applied commencing at the effective date of the second regular reexamination of family income and composition on or after the merger date. Thus, a family receiving a shopping incentive under the pre-merger voucher program will continue to receive any shopping incentive for the pre-merger unit until the family's second regular reexamination on or after the merger date. However, execution of a Housing Choice Voucher Program HAP contract may be deferred until the next time a HAP contract would otherwise be executed in accordance with program requirements.

3. *Conversion of pre-merger over-FMR certificates to vouchers under the Housing Choice Voucher Program.* On the merger date, over-FMR tenancy participants in the pre-merger certificate program automatically become participants in the Housing Choice Voucher Program. Existing HAP contracts for an over-FMR tenancy provide that the housing assistance payment must be calculated in accordance with HUD requirements. However, the HAP contracts do not specify the amount of or method of computing the housing assistance payment. Consistent with § 982.502 of this interim rule, the new method of calculating subsidy under the Housing Choice Voucher Program is applied commencing at the effective date of the second regular reexamination of family income and composition on or after the merger date.

Conversion of an over-FMR tenancy certificate unit to the Housing Choice Voucher Program is not dependent upon execution of a Housing Choice Voucher Program HAP contract. Execution of a Housing Choice Voucher Program HAP contract may be deferred until the next time a HAP contract would otherwise be executed in accordance with program requirements.

4. *Conversion of pre-merger regular tenancy certificate assistance to voucher assistance under the Housing Choice Voucher Program.* A regular tenancy certificate participant will automatically become a participant in the Housing Choice Voucher Program when the PHA executes a new HAP contract on their behalf on or after the merger date—whether for the same unit or for a new unit. The PHA must terminate assistance under any outstanding regular certificate HAP contract (entered

before the merger date) at the effective date of the second regular reexamination of family income and composition on or after the merger date.

All existing certificate tenancies must be converted to the Housing Choice Voucher Program (§ 982.502(d)). However, until conversion there is no change in pre-merger certificate program requirements for calculation of housing assistance payments, including annual adjustments and special adjustments to the contract rent (§§ 982.507, 509, and 510 of the pre-merger regulations which are renumbered as §§ 982.518, 982.519, and 982.520 in the Housing Choice Voucher Program regulations).

## **II. Section 8 Tenant-Based Program Statutory Provisions Not Included in This Rule**

This interim rule does not include every statutory change affecting the Section 8 tenant-based programs. A listing of the implementation method for tenant-based statutory provisions not included in this rule follows.

### *A. Part 5 and Part 984 Regulations Being Published Separately*

Other provisions of the 1998 Act affecting the Section 8 certificate and voucher programs are being addressed in a separate proposed rule amending 24 CFRs parts 5 and 984. This rule was published in the **Federal Register** on April 30, 1999 (64 FR 23460) and includes the following provisions: the minimum rent requirements (section 507 of the 1998 Act); elimination of federal preferences (section 514 of the 1998 Act); income targeting requirements (section 513 of the 1998 Act); elimination of Section 8 selection preference for public housing residents based on prior federal preference status (section 514 of the 1998 Act); elimination of the admission preference for elderly, disabled and displaced persons before other single persons (section 506(2)(A) of the 1998 Act); computer matching income verification information requirements (Section 8(o)(5)(A) of the USH Act, 42 U.S.C. 1437f(o)(5)(A)); revisions to the definitions of annual income and adjusted income (section 508 of the 1998 Act); revision to the minimum FSS program size (section 509 of the 1998 Act); and tenant rent welfare sanctions (section 512 of the 1998 Act). Further, the regulatory conforming changes to reflect the statutory revisions to restrictions on assistance to noncitizens (section 592 of the 1998 Act) are being addressed in a separate final rule.

### *B. Section 8 Tenant-Based Homeownership Program*

Sections 545 and 555 of the 1998 Act provide that PHAs may opt to implement a Section 8 tenant-based homeownership program. HUD is issuing a separate proposed rule to implement the Section 8 tenant-based homeownership program. The homeownership proposed rule was published in the **Federal Register** on April 30, 1999 (64 FR 23488).

### *C. Section 8 Tenant-Based Renewal Funds*

Section 556 of the 1998 Act requires HUD to establish the renewal funding process for tenant-based assistance in a regulation. Beginning October 1, 1998, HUD must renew expiring tenant-based Annual Contributions Contracts (ACCs) by applying a localized inflation factor to an allocation baseline that includes, at a minimum, "amounts sufficient to ensure continued assistance for the actual number of families assisted on October 1, 1997, with appropriate upward adjustments for incremental assistance and additional families authorized subsequent to that date." HUD notice PIH 98-65 dated December 30, 1998 outlines the tenant-based renewal funding allocation policies for federal fiscal year 1999 assistance used to renew funding increments expiring between January 1, 1999 and December 31, 1999. Calendar year 2000 funding for the renewal of Section 8 certificate and voucher ACCs will be allocated pursuant to a negotiated final rule which will be published on or before October 21, 1999.

### *D. PHA Plan*

The PHA Plan interim rule (section 511 of the 1998 Act) was published in the **Federal Register** on February 18, 1999 (64 FR 8170).

### *E. Project-Based Vouchers*

Revisions to the rules for the project-based voucher/certificate program will be implemented in a future rulemaking (Section 8(o)(13) of the USH Act).

### *F. PHA Access to Criminal Conviction Records and Crime and Alcohol Abuse Provisions*

PHA access to criminal conviction records for Section 8 applicants and tenants (section 575 of the 1998 Act) and other crime and alcohol abuse provisions will be implemented through future rulemaking or guidance.

### *G. Other Miscellaneous Statutory Provisions*

Initial guidance on the 1998 Act provisions that are already effective was provided in notices published in the **Federal Register** on February 18, 1999 (64 FR 8192) and April 30, 1999 (64 FR 23344). HUD will continue to provide regulatory and other guidance, as appropriate, for all remaining provisions of the 1998 Act.

## **III. Public Participation in This Rulemaking**

HUD is issuing this interim rule under the statutory authority provided by section 559 of the 1998 Act. Section 559 provides that the Secretary of HUD "shall issue such interim regulations as may be necessary to implement the amendments made by [the 1998 Act] which relate to Section 8(o) of the [USH Act]." Section 559 also requires that before the final rule is published, HUD will seek the recommendations on the implementation of the new Housing Choice Voucher Program from organizations representing: (1) State or local PHAs; (2) Owners and managers of tenant-based housing assistance under Section 8 of the USH Act; and (3) legal services organizations. Section 559 also requires HUD to convene not less than two public forums at which the persons or organizations making recommendations may express their views concerning the proposed disposition of their recommendations. The dates, times and locations of the first two public forums were announced in the **Federal Register** on April 27, 1999 (64 FR 22550).

In addition to the general solicitation of public comments on this interim rule, HUD specifically seeks through this rulemaking recommendations on implementation of the Housing Choice Voucher Program from the four groups mentioned above: (1) State or local PHAs; (2) Owners and managers of tenant-based housing assistance under section 8 of the USH Act; (3) families receiving tenant-based assistance under section 8 of the USH Act; and (4) legal services organizations.

## **IV. Justification for Interim 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. Part 10, however, provides that prior notice and public comment may

be omitted if "a statute expressly so authorizes" (24 CFR 10.1). This interim rule implements those provisions of the 1998 Act which complete the merger of the Section 8 certificate and voucher programs into a single new Section 8 voucher program (authorized under Section 8(o) of the USH Act, 42 U.S.C. 1437f(o)), entitled the Housing Choice Voucher Program. As noted above, section 559 of the 1998 Act provides that the Secretary of HUD "shall issue such interim regulations as may be necessary to implement the amendments made by [the 1998 Act] which relate to Section 8(o) of the [USH Act]." Accordingly, HUD is issuing this interim rule for effect without prior notice and comment.

HUD recognizes the value and necessity of public comment in the development of its regulations. HUD has therefore issued these regulations on an interim basis and has provided the public with a 60-day comment period. Additionally, HUD has provided for a 90-day delayed effective date for this interim rule (in contrast to the customary 30-day delayed effective date for most HUD rules), in order to afford PHAs additional time to prepare for the implementation of the interim rule. Further, HUD has scheduled three public forums to discuss implementation of the Housing Choice Voucher Program. HUD welcomes comment on the regulatory amendments made by this interim rule. Public comments will be addressed in the final rule.

## **V. Findings and Certifications**

### *Paperwork Reduction Act*

(a) The proposed information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for review, under section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

(b) In accordance with 5 CFR 1320.5(a)(1)(iv), HUD estimates that the total reporting and recordkeeping burden that will result from the proposed collection of information as follows:

BILLING CODE 4210-32-P

## Section 8 Merger Rule

Description	Number of respondents	Responses per respondent	Total annual responses	Hours per response	Total hours	Regulatory reference
Application forms HUD-52515	1,000	1	1,000	1.00	1,000	982.54 982.102 982.158
Tenant-furnished utilities HUD-52667	1,500	1	1,500	1.50	2,250	982.158 982.517
Inspection form HUD-52580	2,500	300	750,000	0.50	375,000	982.158 982.401
HUD-52580A	2,500	300	750,000	0.25	187,500	982.405
Financial forms HUD-52595; 52663; 52672; 52673; 52681	2,500	5	12,500	1.50	18,750	982.157 982.158
Request for lease approval HUD-52517A	205,000	1	205,000	.08	16,400	982.158 982.302
Voucher HUD-52646	2,500	100	250,000	.05	12,550	982.158 982.305
Elevated Blood Level (EBL) Match	2,500	1	2,500	.25	625	982.158 982.401(j)
HA Information to Owner	2,500	60	205,000	.05	10,250	982.307
Portability Information HUD-52665	2,500	20	50,000	.50	25,000	982.158 982.355

Description	Number of respondents	Responses per respondent	Total annual responses	Hours per response	Total hours	Regulatory reference
Program Utilization Report HUD-52683	2,500	2	5,000	.33	1,650	982.158
-						
Total number of respondents (2500 HAs + 205,000 families + 100,000 tenant-based owners) = 307,500 respondents						
Total annual responses.....			2,232,500			
Total burden hours.....					650,975	

(c) In accordance with 5 CFR 1320.8(d)(1), the Department is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Interested persons are invited to submit comments regarding the information collection requirements in this proposal. Under the provisions of 5 CFR part 1320, OMB is required to make a decision concerning this collection of information between 30 and 60 days after today's publication date. Therefore, a comment on the information collection requirements is best assured of having its full effect if OMB receives the comment within 30 days of today's publication. This time frame does not affect the deadline for comments to the agency on the interim rule, however. Comments must refer to the rule by name and docket number (FR-4428) and must be sent to:

Joseph F. Lackey, Jr., HUD Desk Officer,  
Office of Management and Budget,  
New Executive Office Building,  
Washington, DC 20503

and  
Gerald J. Benoit, Office of Public and  
Indian Housing, Department of  
Housing and Urban Development,  
Room 4210, 451 Seventh Street, SW,  
Washington, DC 20410

#### *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. 4223). The 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.

#### *Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This interim rule does not impose any Federal mandates on any State, local, or tribal governments or the private sector within the meaning of Unfunded Mandates Reform Act of 1995.

#### *Executive Order 12866*

The Office of Management and Budget (OMB) reviewed this interim rule under Executive Order 12866, *Regulatory Planning and Review*. OMB determined that this interim rule is a "significant regulatory action," as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). Any changes made to the interim rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, Room 10276, 451 Seventh Street, SW, Washington, DC 20410-0500.

#### *Impact on Small Entities*

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) (the RFA), has reviewed and approved this interim rule and in so doing certifies that this rule would not have a significant economic impact on a substantial number of small entities. The reasons for HUD's determination are as follows:

(1) *A Substantial Number of Small Entities Will Not be Affected.* The interim rule is exclusively concerned with public housing agencies that administer tenant-based housing assistance under Section 8 of the United States Housing Act of 1937. Specifically, the interim rule would establish requirements governing tenant-based assistance for an eligible family. Under the definition of "Small governmental jurisdiction" in section 601(5) of the RFA, the provisions of the RFA are applicable only to those few public housing agencies that are part of a political jurisdiction with a population of under 50,000 persons. The number of entities potentially affected by this rule is therefore not substantial.

(2) *No Significant Economic Impact.* The interim regulatory amendments would not change the amount of funding available under the Section 8 voucher program. Accordingly, the economic impact of this rule will not be significant, and it will not affect a substantial number of small entities.

Notwithstanding HUD's determination that this rule will not have a significant economic effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

#### *Executive Order 12612, Federalism*

The General Counsel, as the Designated Official for HUD under section 6(a) of Executive Order 12612, *Federalism*, has determined that this rule will not have federalism implications concerning the division of local, State, and Federal responsibilities. No programmatic or policy change under this rule will affect the relationship between the Federal government and State and local governments.

#### *Catalog of Domestic Assistance Numbers*

The Catalog of Domestic Assistance numbers for the programs affected by this interim rule are 14.146, 14.147, 14.850, 14.851, 14.852, 14.855, 14.857, and 15.141.

#### *List of Subjects*

##### *24 CFR Part 248*

Intergovernmental relations, Loan programs—housing and community development, Low and moderate income housing, Mortgage insurance, Reporting and recordkeeping requirements.

##### *24 CFR Part 791*

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

##### *24 CFR Part 792*

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

##### *24 CFR Part 982*

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

For the reasons discussed in the preamble, HUD amends 24 CFR parts 248, 791, 792, and 982 as follows:

#### **PART 248—PREPAYMENT OF LOW INCOME HOUSING MORTGAGES**

1. The authority citation for part 248 continues to read as follows:

**Authority:** 12 U.S.C. 1715l note, 4101 note, and 4101–4124; 42 U.S.C. 3535(d).

##### **§ 248.101 [Amended]**

2. Amend § 248.101 as follows:

a. In the definition of "Adjusted income" revise the references to "§ 813.106" and "§ 813.102" to read "part 5".

b. In the definition of "Fair market rent", revise the reference to "§ 882.102" to read "§ 982.4"; and

c. In the definition of "Low Income Families", revise the reference to "part 813" to read "part 5".

d. In the definition of "Section 8 assistance", after the words "880 through 887", add the words "and 982 and 983".

e. In the definition of "Special Needs Tenants" revise the reference to "§ 812.2" to read "part 5".

f. In the definition of "Very Low Income Families", revise the reference to "§ 813.102" to "part 5".

#### § 248.141 [Amended]

3. Amend § 248.141(c)(3) by removing the reference to "certificate and".

#### § 248.147 [Amended]

4. In § 248.147(e)(1), revise the references to "parts 882 and 887" in the first and second sentences to read in each place "part 982".

5. Amend § 248.165 as follows:

a. Revise paragraph (a) as set forth below; and

b. In paragraph (i), revise the reference to "assistance under parts 882 or 887 of this title" to read "tenant-based assistance under the Housing Choice Voucher Program".

#### § 248.165 Assistance for displaced tenants.

(a) *Section 8 assistance.* Each low income family that is displaced as a result of the prepayment of the mortgage, or voluntary termination of an insurance contract, on eligible low income housing shall, subject to the availability of funds, be offered the opportunity to receive tenant-based assistance under the Housing Choice Voucher Program in accordance with part 982 of this title.

\* \* \* \* \*

6. Revise § 248.173(m)(2) to read as follows:

#### § 248.173 Resident homeownership program.

\* \* \* \* \*

(m) \* \* \*

(2) *Section 8 assistance.* If a tenant decides not to purchase a unit, or is not qualified to do so, the Commissioner shall ensure that tenant-based assistance under the Housing Choice Voucher Program in accordance with part 982 of this title is available for use in that or another property by each tenant that

meets the eligibility requirements thereunder.

\* \* \* \* \*

#### § 248.201 [Amended]

7. Amend § 248.201 as follows:

a. In the definition of "*Low-income Families*", revise the reference to "part 813" to read "part 5";

b. In the definition of "*Very Low Income Families*", revise the reference to "under § 813.102 of this title" to read "under section 3(b) of the 1937 Act (42 U.S.C. 1437a(b))".

#### PART 791—ALLOCATIONS OF HOUSING ASSISTANCE FUNDS

8. Revise the heading of part 791 to read as set forth above.

9. The authority citation for part 791 continues to read as follows:

**Authority:** 42 U.S.C. 1439 and 3535(d).

10. Revise § 791.101 to read as follows:

#### § 791.101 Applicability and scope.

This part describes the role and responsibility of HUD in allocation of budget authority (pursuant to section 213 of the Housing and Community Development Act of 1974 (42 U.S.C. 1439)) for housing assistance under the United States Housing Act of 1937 (Section 8 and public housing) and under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), and of budget authority for housing assistance under section 202 of the Housing Act of 1959 (12 U.S.C. 1710q). This part does not apply to budget authority for the public housing operating fund or capital fund.

11. Amend § 791.102 as follows:

a. Remove the definitions of "*Application for housing assistance*", "*Chief executive officer*", "*Household type*", "*Housing type*", "*Local government*", "*Tenure type*", and "*Urban county*";

b. Amend the definition of "*Allocation area*" by removing the reference to "or Indian areas"; and

c. Revise the definition of "*Public housing agency*" as set forth below.

#### § 791.102 Definitions.

\* \* \* \* \*

*Public housing agency (PHA).* (1) Any State, county, municipality, or other governmental entity or public body which is authorized to administer a program under the 1937 Act (or an agency or instrumentality of such an entity).

(2) In addition, for purposes of the program of Section 8 tenant-based assistance under part 982 of this title, the term PHA also includes any of the following:

(i) A consortia of housing agencies, each of which meets the qualifications in paragraph (1) of this definition, that HUD determines has the capacity and capability to efficiently administer the program (in which case, HUD may enter into a consolidated ACC with any legal entity authorized to act as the legal representative of the consortia members);

(ii) Any other public or private non-profit entity that was administering a Section 8 tenant-based assistance program pursuant to a contract with the contract administrator of such program (HUD or a PHA) in effect on October 21, 1998; or

(iii) For any area outside the jurisdiction of a PHA that is administering a tenant-based program, or where HUD determines that such PHA is not administering the program effectively, a private non-profit entity or a governmental entity or public body that would otherwise lack jurisdiction to administer the program in such area.

#### Subpart C—[Removed and Reserved]

12. Remove and reserve subpart C.

#### § 791.401 [Amended]

13. In § 791.401, revise the reference to "§ 791.101(a)" to read "§ 791.101".

14. Amend § 791.402 as follows:

a. Remove paragraph (c)(2) and redesignate paragraph (c)(1) as paragraph (c); and

b. Revise paragraph (d) as set forth below.

#### § 791.402 Determination of low-income housing needs.

\* \* \* \* \*

(d) Based on the criteria in paragraphs (b) and (c) of this section, the Assistant Secretary for Policy Development and Research shall establish housing needs factors for each county and independent city in the field office jurisdiction, and shall aggregate the factors for such jurisdiction. The field office total for each factor is then divided by the respective national total for that factor. The resulting housing needs ratios under paragraph (b) of this section are then weighted to provide housing needs percentages for each field office, using the following weights: population—20 percent; poverty—20 percent; housing overcrowding—10 percent; housing vacancies—10 percent; substandard housing—20 percent; other objectively measurable conditions—20 percent. For the section 202 elderly program, the two criteria described in paragraph (c) of this section are weighted equally.

\* \* \* \* \*



15. Amend § 791.403 to revise paragraphs (a) and (b)(1)(i) to read as follows:

**§ 791.403 Allocation of housing assistance.**

(a) The total budget authority available for any fiscal year shall be determined by adding any available unreserved budget authority from prior fiscal years to any newly appropriated budget authority for each housing program.

(b) \* \* \*

(1) \* \* \*

(i) Amendments of existing contracts, renewal of assistance contracts, assistance to families that would otherwise lose assistance due to the decision of the project owner to prepay the project mortgage or not to renew the assistance contract, assistance to prevent displacement or to provide replacement housing in connection with the demolition or disposition of public housing, assistance in support of the property disposition and loan management functions of the Secretary;

\* \* \* \* \*

16. Revise § 791.404(c) to read as follows:

**§ 791.404 Field Office allocation planning.**

\* \* \* \* \*

(c) *Determining the amount of budget authority.* Where the field office establishes more than one allocation area, it shall determine the amount of budget authority to be allocated to each allocation area, based upon a housing needs percentage which represents the needs of that area relative to the field office jurisdiction. For each program, a composite housing needs percentage developed under § 791.402 for those counties and independent cities comprising the allocation area shall be aggregated into allocation area totals.

\* \* \* \* \*

**PART 792—PUBLIC HOUSING AGENCY SECTION 8 FRAUD RECOVERIES**

17. Revise the heading of part 792 to read as set forth above.

18. The authority citation for 24 CFR part 792 continues to read as follows:

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

**PART 792—[AMENDED]**

19. In part 792, revise all references to “HA” to read “PHA”.

20. Revise § 792.101 to read as follows:

**§ 792.101 Purpose.**

The purpose of this part is to encourage public housing agencies

(PHAs) to investigate and pursue instances of tenant and owner fraud and abuse in the operation of the Section 8 housing assistance payments programs.

**§ 792.102 [Amended]**

21. Amend § 792.102 as follows:

a. In paragraphs (a) and (b), revise the reference to “an HA” to read “a PHA”.

b. In paragraph (b), revise the reference to “§ 882.216 or 887.405” to read “§ 982.555 of this title”.

22. Amend § 792.103 as follows:

a. Remove the definition of “HA (Housing Agency)”;

b. Add the definition of “Public housing agency (PHA)” in alphabetical order as set forth below; and

c. In the definition of “Repayment agreement”, revise the reference to “an HA” to read “a PHA”.

**§ 792.103 Definitions.**

\* \* \* \* \*

*Public housing agency (PHA).* A public housing agency as defined in § 791.102.

\* \* \* \* \*

**§ 792.202 [Amended]**

23. In § 792.202(a)(1) and (a)(2), revise the reference to “§ 882.216 or 887.405” to read “§ 982.555 of this title”.

**PART 982—SECTION 8 TENANT BASED ASSISTANCE: HOUSING CHOICE VOUCHER PROGRAM**

24. Revise the heading of part 982 to read as set forth above.

25. The authority citation for part 982 continues to read as follows:

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

**PART 982—[AMENDED]**

25a. In part 982, “HA” is removed and “PHA” is added in its place wherever it appears, and “an HA” is removed and “a PHA” is added in its place wherever it appears.

26. Amend § 982.1 as follows:

a. Revise the section heading;

b. Revise paragraphs (a)(1), (a)(2), and (a)(4);

c. Amend paragraph (a)(3) by removing the reference to “and is not based on the actual rent of the leased unit”;

d. Amend paragraph (b)(1) by removing the reference to “certificate or”; and

e. Revise paragraph (b)(2).

The revisions read as follows:

**§ 982.1 Programs: Purpose and structure.**

(a) *General description.* (1) In the HUD Housing Choice Voucher Program (Voucher Program) and the HUD certificate program, HUD pays rental

subsidies so eligible families can afford decent, safe and sanitary housing. Both programs are generally administered by State or local governmental entities called public housing agencies (PHAs). HUD provides housing assistance funds to the PHA. HUD also provides funds for PHA administration of the programs. PHAs are no longer allowed to enter into contracts for assistance in the certificate program.

(2) Families select and rent units that meet program housing quality standards. If the PHA approves a family's unit and tenancy, the PHA contracts with the owner to make rent subsidy payments on behalf of the family. A PHA may not approve a tenancy unless the rents is reasonable.

\* \* \* \* \*

(4)(i) In the certificate program, the subsidy for most families is the difference between the rent and 30 percent of adjusted monthly income.

(ii) In the voucher program, the subsidy is based on a local “payment standard” that reflects the cost to lease a unit in the local housing market. If the rent is less than the payment standard, the family generally pays 30 percent of adjusted monthly income for rent. If the rent is more than the payment standard, the family pays a larger share of the rent.

\* \* \* \* \*

(b) \* \* \*

(2) To receive tenant-based assistance, the family selects a suitable unit. After approving the tenancy, the PHA enters into a contract to make rental subsidy payments to the owner to subsidize occupancy by the family. The PHA contract with the owner only covers a single unit and a specific assisted family. If the family moves out of the leased unit, the contract with the owner terminates. The family may move to another unit with continued assistance so long as the family is complying with program requirements.

**§ 982.2 [Amended]**

27. In § 982.2(a), remove the word “rental” in both places it appears in the second sentence.

28. Amend § 982.4 as follows:

a. Amend paragraph (a)(2) by removing the reference to “Housing agency (HA)”;

b. In paragraph (a)(4) revise the reference to “utility allowance, and utility reimbursement” to read “utility allowance”;

c. Amend paragraph (b) by removing the definitions of “Amortization payment”, “Certificate”, “Certificate or voucher holder”, “Certificate program”,

"Contiguous MSA", "Contract authority", "Exception rent", "FMR/exception rent limit", "Lease addendum", "Over-FMR tenancy", "Regular tenancy", "Set-up charges", "Utility hook-up charge", and "Voucher program";

d. Amend paragraph (b) by revising the definitions of "Payment standard", and "Tenant rent";

e. Amend paragraph (b) by removing the reference to "certificate or" from the definitions of the terms "Receiving HA" and "Suspension"; and

f. Amend paragraph (b) by removing the phrase "approval to lease a unit" in the definition of "Suspension" and adding in its place "approval of the tenancy".

g. Amend paragraph (b) by adding, in alphabetical order, the definitions of the terms "Merger date", "PHA plan", "Program", "Program receipts", "Public housing agency (PHA)", "Residency preference", "Residency preference area", "Tenant rent", and "Voucher holder".

#### § 982.4 Definitions.

\* \* \* \* \*

(b) \* \* \*

*Merger date.* August 12, 1999.

\* \* \* \* \*

*Payment standard.* The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

*PHA plan.* The annual plan and the 5-year plan as adopted by the PHA and approved by HUD in accordance with part 903 of this chapter.

\* \* \* \* \*

*Program.* The Section 8 tenant-based assistance program under this part.

*Program receipts.* HUD payments to the PHA under the consolidated ACC, and any other amounts received by the PHA in connection with the program.

*Public housing agency (PHA).* PHA includes both:

(1) Any State, county, municipality, or other governmental entity or public body which is authorized to administer the program (or an agency or instrumentality of such an entity), or

(2) Any of the following:

(i) A consortia of housing agencies, each of which meets the qualifications in paragraph (1) of this definition, that HUD determines has the capacity and capability to efficiently administer the program (in which case, HUD may enter into a consolidated ACC with any legal entity authorized to act as the legal representative of the consortia members);

(ii) Any other public or private non-profit entity that was administering a

Section 8 tenant-based assistance program pursuant to a contract with the contract administrator of such program (HUD or a PHA) on October 21, 1998; or

(iii) For any area outside the jurisdiction of a PHA that is administering a tenant-based program, or where HUD determines that such PHA is not administering the program effectively, a private non-profit entity or a governmental entity or public body that would otherwise lack jurisdiction to administer the program in such area.

\* \* \* \* \*

*Residency preference.* A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area ("residency preference area").

*Residency preference area.* The specified area where families must reside to qualify for a residency preference.

\* \* \* \* \*

*Tenant rent.* For a tenancy in the certificate program: The total tenant payment minus any utility allowance.

\* \* \* \* \*

*Voucher holder.* A family holding a voucher with an unexpired term (search time).

\* \* \* \* \*

29. Revise § 982.51(a) to read as follows:

#### § 982.51 PHA authority to administer program.

(a) The PHA must have authority to administer the program. The PHA must provide evidence, satisfactory to HUD, of its status as a PHA, of its authority to administer the program, and of the PHA jurisdiction.

\* \* \* \* \*

30. Amend § 982.53 by revising paragraphs (b) and (c) and adding paragraph (d) to read as follows:

#### § 982.53 Equal opportunity requirements.

\* \* \* \* \*

(b) *Civil rights certification.* The PHA must submit a signed certification to HUD that:

(1) The PHA will administer the program in conformity with the Fair Housing Act, Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act.

(2) The PHA will affirmatively further fair housing in the administration of the program.

(c) *Obligation to affirmatively further fair housing.* The PHA shall be considered in compliance with the obligation to affirmatively further fair

housing if the PHA examines its programs or proposed programs, identifies any impediments to fair housing choice within those programs, addresses those impediments in a reasonable fashion in view of the resources available, works with the local jurisdiction to implement any of the local government's initiatives to affirmatively further fair housing that require the PHA's involvement, and maintains records reflecting these analyses and actions.

(d) *State law.* Nothing in part 982 is intended to pre-empt operation of State laws that prohibit discrimination against a Section 8 voucher-holder because of status as a Section 8 voucher-holder. However, such State laws shall not change or affect any requirement of this part, or any other HUD requirements for administration or operation of the program.

31. Amend § 982.54 as follows:

a. Revise paragraphs (d)(1), (d)(2), (d)(14) and (d)(15);

b. Remove paragraph (d)(16);

c. Redesignate paragraphs (d)(17) through (d)(22) as paragraphs (d)(16) through (d)(21) respectively; and

d. Add new paragraph (d)(27).

The revisions and addition read as follows:

#### § 982.54 Administrative plan.

\* \* \* \* \*

(d) \* \* \*

(1) Selection and admission of applicants from the PHA waiting list, including any PHA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening the PHA waiting list;

(2) Issuing or denying vouchers, including PHA policy governing the voucher term and any extensions or suspensions of the voucher term. "Suspension" means stopping the clock on the term of a family's voucher after the family submits a request for approval of the tenancy. If the PHA decides to allow extensions or suspensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions or suspensions, and how the PHA determines the length of any extension or suspension;

\* \* \* \* \*

(14) The process for establishing and revising voucher payment standards;

(15) The method of determining that rent to owner is a reasonable rent (initially and during the term of a HAP contract);

\* \* \* \* \*

(22) Procedural guidelines and performance standards for conducting required HQS inspections.

32. In § 982.101, revise paragraph (a) and paragraph (b)(2)(i) to read as follows:

**§ 982.101 Allocation of funding.**

(a) *Allocation of funding.* HUD allocates available budget authority for the tenant-based assistance program to HUD field offices.

(b) \* \* \*

(2) \* \* \*

(i) Funding retained in a headquarters reserve for purposes specified by law;

\* \* \* \* \*

33. Amend § 982.103 by revising paragraph (a) and adding paragraph (c) to read as follows:

**§ 982.103 HUD review of application.**

(a) *Competitive funding under NOFA.* For competitive funding under a NOFA, HUD must evaluate an application on the basis of the selection criteria stated in the NOFA, and must consider the PHA's capacity and capability to administer the program.

\* \* \* \* \*

(c) *PHA disqualification.* HUD will not approve any PHA funding application (including an application for competitive funding under a NOFA) if HUD determines that the PHA is disbarred or otherwise disqualified from providing assistance under the program.

34. Amend § 982.151 as follows:

a. Amend paragraph (a)(1) by removing the reference to "the maximum annual payment by HUD, and";

b. In paragraph (a)(2), revise the reference to "certificate program and voucher program" to read "tenant-based assistance program"; and

c. Revise paragraph (b) to read as follows:

**§ 982.151 Annual contributions contract.**

\* \* \* \* \*

(b) *Budget authority.* (1) Budget authority is the maximum amount that may be paid by HUD to a PHA over the ACC term of a funding increment. Before adding a funding increment to the consolidated ACC for a PHA program, HUD reserves budget authority from amounts authorized and appropriated by the Congress for the program.

(2) For each funding increment, the ACC specifies the term over which HUD will make payments for the PHA program, and the amount of available budget authority for each funding increment. The amount to be paid to the PHA during each PHA fiscal year (including payment from the ACC

reserve account described in § 982.154) must be approved by HUD.

35. Amend § 982.152 by revising paragraphs (a)(1), (b)(1) and (c) to read as follows:

**§ 982.152 Administrative fee.**

(a) *Purposes of administrative fee.* (1) HUD may approve administrative fees to the PHA for any of the following purposes:

(i) Ongoing administrative fee;

(ii) Costs to help families who experience difficulty finding or renting appropriate housing under the program;

(iii) The following types of extraordinary costs approved by HUD:

(A) Costs to cover necessary additional expenses incurred by the PHA to provide reasonable accommodation for persons with disabilities in accordance with part 8 of this title (e.g., additional counselling costs), where the PHA is unable to cover such additional expenses from ongoing administrative fee income or the PHA administrative fee reserve;

(B) Costs of audit by an independent public accountant;

(C) Other extraordinary costs determined necessary by HUD Headquarters;

(iv) Preliminary fee (in accordance with paragraph (c) of this section);

(v) Costs to coordinate supportive services for families participating in the family self-sufficiency (FSS) program.

\* \* \* \* \*

(b) *Ongoing administrative fee.* (1) The PHA ongoing administrative fee is paid for each program unit under HAP contract on the first day of the month. The amount of the ongoing fee is determined by HUD in accordance with Section 8(q)(1) of the 1937 Act (42 U.S.C. 1437f(q)(1)).

\* \* \* \* \*

(c) *Preliminary fee.* (1) If the PHA was not administering a program of Section 8 tenant-based assistance prior to the merger date, HUD will pay a one-time fee in the amount of \$500 in the first year the PHA administers a program. The fee is paid for each new unit added to the PHA program by the initial funding increment under the consolidated ACC.

(2) The preliminary fee is used to cover expenses the PHA incurs to help families who inquire about or apply for the program, and to lease up new program units.

\* \* \* \* \*

36. Revise § 982.154 to read as follows:

**§ 982.154 ACC reserve account.**

(a) HUD may establish and maintain an unfunded reserve account for the

PHA program from available budget authority under the consolidated ACC. This reserve is called the "ACC reserve account" (formerly "project reserve"). There is a single ACC reserve account for the PHA program.

(b) The amount in the ACC reserve account is determined by HUD. HUD may approve payments for the PHA program, in accordance with the PHA's HUD-approved budget, from available amounts in the ACC reserve account.

37. Amend § 982.155 by revising the introductory text of paragraph (a) to read as follows:

**§ 982.155 Administrative fee reserve.**

(a) The PHA must maintain an administrative fee reserve (formerly "operating reserve") for the program. There is a single administrative fee reserve for the PHA program. The PHA must credit to the administrative fee reserve the total of:

\* \* \* \* \*

38. Amend § 982.157 as follows:

a. Revise paragraph (b)(1) introductory text as set forth below; and

b. Add paragraph (c).

**§ 982.157 Budget and expenditures.**

\* \* \* \* \*

(b) *PHA use of program receipts.* (1) Program receipts must be used in accordance with the PHA's HUD-approved budget. Such program receipts may only be used for:

\* \* \* \* \*

(c) *Intellectual property rights.* Program receipts may not be used to indemnify contractors or subcontractors of the PHA against costs associated with any judgment of infringement of intellectual property rights.

39. Revise § 982.162(a)(3) to read as follows:

**§ 982.162 Use of HUD-required contracts and other forms.**

(a) \* \* \*

(3) The tenancy addendum required by HUD (which is included both in the HAP contract and in the lease between the owner and the tenant).

\* \* \* \* \*

40. Amend § 982.201 as follows:

a. In paragraph (a), revise the reference to "a program" to read "the program";

b. Revise paragraphs (b) and (f)(2) as set forth below; and

c. Remove the reference to "certificate or" in paragraphs (d)(1), (d)(2) and (e).

**§ 982.201 Eligibility.**

\* \* \* \* \*

(b) *Income.* (1) *Income-eligibility.* To be income-eligible, the applicant must

be a family in any of the following categories:

(i) A "very low income" family;  
(ii) A low-income family that is "continuously assisted" under the 1937 Housing Act;

(iii) A low-income family that meets additional eligibility criteria specified in the PHA administrative plan. Such additional PHA criteria must be consistent with the PHA plan and with the consolidated plans for local governments in the PHA jurisdiction;

(iv) A low-income family that qualifies for voucher assistance as a non-purchasing family residing in a HOPE 1 (HOPE for public housing homeownership) or HOPE 2 (HOPE for homeownership of multifamily units) project. (Section 8(o)(4)(D) of the 1937 Act (42 U.S.C. 1437f(o)(4)(D));

(v) A low-income or moderate-income family that is displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing as defined in § 248.101 of this title;

(vi) A low-income family that qualifies for voucher assistance as a non-purchasing family residing in a project subject to a resident homeownership program under § 248.173 of this title.

(2) *Income-targeting.* (i) Not less than 75 percent of the families admitted to a PHA's tenant-based voucher program during the PHA fiscal year shall be targeted to families whose annual income does not exceed the following amounts as determined by HUD:

(A) 30 percent of the area median income, with adjustments for smaller and larger families; or

(B) A higher or lower percent of the area median income, if HUD determines that a higher or lower percent is necessary because of unusually high or low family incomes.

(ii) Conversion of assistance for a participant in the PHA certificate program to assistance in the PHA voucher program does not count as an "admission," and is not subject to targeting under paragraph (b)(2)(i) of this section.

(iii) Admission of families as described in paragraphs (b)(1)(ii) or (b)(1)(v) of this section is not subject to targeting under paragraph (b)(2)(i) of this section.

(iv) If two or more PHAs that administer section 8 tenant-based assistance have an identical jurisdiction, such PHAs shall be treated as a single PHA for purposes of targeting under paragraph (b)(2)(i) of this section. In such a case, the PHAs shall cooperate to assure that aggregate admissions by such PHAs comply with the targeting

requirement. If such PHAs do not have a single fiscal year, HUD will determine which PHA's fiscal year is used for this purpose.

(3) The annual income (gross income) of an applicant family is used both for determination of income-eligibility under paragraph (b)(1) of this section, and for targeting under paragraph (b)(2)(i) of this section.

(4) The applicable income limit for issuance of a voucher when a family is selected for the program is the highest income limit (for the family unit size) for areas in the PHA jurisdiction. The applicable income limit for admission to the program is the income limit for the area where the family is initially assisted in the program. The family may only use the voucher to rent a unit in an area where the family is income eligible at admission to the program.

\* \* \* \* \*

(f) \* \* \*

(2) For description of the grounds for denying assistance because of action or inaction by the applicant, see § 982.552(b) and (c) (requirement and authority to deny admission) and § 982.553(a) (crime by family members).

41. Amend § 982.202 as follows:

a. Remove paragraph (b)(1);

b. Redesignate paragraphs (b)(2), (b)(3), and (b)(4) as paragraphs (b)(1), (b)(2), and (b)(3), respectively; and

c. Revise the introductory text of the newly designated paragraph (b)(3) as set forth below; and

d. Revise paragraph (d) as set forth below.

**§ 982.202 How applicants are selected: General requirements.**

\* \* \* \* \*

(b) \* \* \*

(3) *Family characteristics.* The PHA preference system may provide a preference for admission of families with certain characteristics from the PHA waiting list. However, admission to the program may not be based on:

\* \* \* \* \*

(d) *Admission policy.*

The PHA must admit applicants for participation in accordance with HUD regulations and other requirements, and with PHA policies stated in the PHA administrative plan and the PHA plan. The PHA admission policy must state the system of admission preferences that the PHA uses to select applicants from the waiting list, including any residency preference or other local preference.

**§ 982.20 [Amended]**

42. In § 982.203(b)(1), remove the words "or Indian".

43. In § 982.204, revise paragraph (b)(4), amend paragraph (b)(5) to remove

the phrase "ranking preference or" and add a new paragraph (f) to read as follows:

**§ 982.204 Waiting list: Administration of waiting list.**

\* \* \* \* \*

(b) \* \* \*

(4) Qualification for any local preference;

\* \* \* \* \*

(f) *Number of waiting lists.* A PHA must use a single waiting list for admission to its Section 8 tenant-based assistance program. However, the PHA may use a separate single waiting list for such admissions for a county or municipality.

**§ 982.205 [Amended]**

44. Amend § 982.205 as follows:

a. Remove paragraph (a);

b. Redesignate paragraphs (b) and (c) as paragraphs (a) and (b), respectively;

c. In newly designated paragraph (a)(2), revise all references to "project-based certificate program" to read "project-based voucher program", and remove all references to "or Indian";

d. In newly designated paragraph (b)(1), remove the reference to "or Indian"; and

e. In newly designated paragraph (b)(3), revise the reference to "paragraph (c)(2)" to read "paragraph (b)(2)", and remove the reference to "both the certificate program and".

45. Amend § 982.206 as follows:

a. Revise paragraph (b)(2) as set forth below;

b. Remove paragraph (c)(2); and

c. Redesignate paragraph (c)(1) as paragraph (c).

**§ 982.206 Waiting list: Opening and closing; Public notice.**

\* \* \* \* \*

(b) \* \* \*

(2) If the waiting list is open, the PHA must accept applications from families for whom the list is open unless there is good cause for not accepting the application (such as denial of assistance because of action or inaction by members of the family) for the grounds stated in §§ 982.552 and 982.553.

\* \* \* \* \*

46. Revise § 982.207 to read as follows:

**§ 982.207 Waiting list: Local preferences in admission to program.**

(a) *Establishment of PHA local preferences.* (1) The PHA may establish a system of local preferences for selection of families admitted to the program. PHA selection preferences must be described in the PHA administrative plan. The system of local

preferences must be consistent with the PHA plan (see part 903 of this title), and with the consolidated plans for local governments in the PHA jurisdiction.

(2) The PHA system of local preferences must be based on local housing needs and priorities, as determined by the PHA. In determining such needs and priorities, the PHA shall use generally accepted data sources. The PHA shall consider public comment on the proposed public housing agency plan (as received pursuant to § 903.17 of this chapter) and on the consolidated plan for the relevant jurisdiction (as received pursuant to part 91 of this title).

(3) The PHA may limit the number of applicants that may qualify for any local preference.

(b) *Residency preferences.* (1) If approved by HUD, the PHA may adopt a residency preference that establishes a county or municipality as a residency preference area. A PHA may not adopt a residency preference for an area smaller than a county or municipality.

(2) A residency preference must apply to families with a member who works or who has been hired to work anywhere in a residency preference area. In applying the residency preference, such families must be treated like families that reside in the residency preference area.

(3) A residency preference may not be based on how long the applicant has resided in or worked in the PHA jurisdiction or residency preference area.

(c) *Selection among families with preference.* The PHA system of preferences may use either of the following to select among applicants on the waiting list with the same preference status:

(1) Date and time of application; or

(2) A drawing or other random choice technique.

(d) *Preference for person with disabilities.* The PHA may give a preference for admission of families that include a person with disabilities. However, the PHA may not give a preference for admission of persons with a specific disability.

(e) *Verification of selection method.* The method for selecting applicants from a preference category must leave a clear audit trail that can be used to verify that each applicant has been selected in accordance with the method specified in the administrative plan.

47. Amend § 982.301 as follows:

a. In paragraph (b)(1), remove the reference to "certificate or"; and

b. Revise paragraphs (b)(2), (b)(5) and (b)(6) as set forth below.

#### **§ 982.301 Information when family is selected.**

\* \* \* \* \*

(b) \* \* \*

(2) How the PHA determines the amount of the housing assistance payment for a family, including:

(i) How the PHA determines the payment standard for a family; and  
(ii) How the PHA determines the total tenant payment for a family.

\* \* \* \* \*

(5) The HUD-required "tenancy addendum" that must be included in the lease;

(6) The form that the family uses to request PHA approval of the assisted tenancy, and an explanation of how to request such approval;

\* \* \* \* \*

48. Revise § 982.302 to read as follows:

#### **§ 982.302 Issuance of voucher; Requesting PHA approval of assisted tenancy.**

(a) When a family is selected, or when a participant family wants to move to another unit, the PHA issues a voucher to the family. The family may search for a unit.

(b) If the family finds a unit, and the owner is willing to lease the unit under the program, the family may request PHA approval of the tenancy. The PHA has the discretion whether to permit the family to submit more than one request at a time.

(c) The family must submit to the PHA a request for approval of the tenancy and a copy of the lease, including the HUD-prescribed tenancy addendum. The request must be submitted during the term of the voucher.

(d) The PHA specifies the procedure for requesting approval of the tenancy. The family must submit the request for approval of the tenancy in the form and manner required by the PHA.

#### **§ 982.303 [Amended]**

49. Amend § 982.303 as follows:

a. Revise the section heading to read "Term of voucher";

b. Remove all references to "certificate or"; and

c. In paragraph (c), revise both references to "request for lease approval" to read "request for approval of the tenancy";

50. Amend § 982.305 as follows:

a. Revise the section heading to read "PHA approval of assisted tenancy";

b. In the introductory text of paragraph (a), revise the reference to "to lease a dwelling unit" to read "of the assisted tenancy";

c. Remove paragraph (a)(5);

d. Revise paragraphs (a)(3), (a)(4) and (b) as set forth below;

e. In paragraphs (d) and (e), revise the references to "to lease a unit" to read "of the assisted tenancy".

#### **§ 982.305 PHA approval of assisted tenancy.**

(a) \* \* \*

(3) The lease includes the tenancy addendum; and

(4) The rent to owner is reasonable.

(b) *Actions before lease term.* (1) All of the following must always be completed before the beginning of the initial term of the lease for a unit:

(i) The PHA has inspected the unit and has determined that the unit satisfies the HQS;

(ii) The landlord and the tenant have executed the lease (including the HUD-prescribed tenancy addendum); and

(iii) The PHA has approved leasing of the unit in accordance with program requirements.

(2)(i) The PHA must inspect the unit, determine whether the unit satisfies the HQS, and notify the family and owner of the determination:

(A) In the case of a PHA with up to 1250 budgeted units in its tenant-based program, within fifteen days after the family and the owner submit a request for approval of the tenancy.

(B) In the case of a PHA with more than 1250 budgeted units in its tenant-based program, within a reasonable time after the family submits a request for approval of the tenancy. To the extent practicable, such inspection and determination must be completed within fifteen days after the family and the owner submit a request for approval of the tenancy.

(ii) The fifteen day clock (under paragraph (b)(2)(i)(A) or paragraph (b)(2)(i)(B) of this section) is suspended during any period when the unit is not available for inspection.

\* \* \* \* \*

51. Amend § 982.306 as follows:

a. In paragraph (a) and the introductory text of paragraph (b), revise the references to "a unit" to read "an assisted tenancy";

b. In the introductory text of paragraph (c), revise the reference to "to lease a unit from an owner" to read "of an assisted tenancy";

c. Revise paragraph (c)(3) as set forth below;

d. Redesignate paragraphs (c)(5) and (c)(6) as paragraphs (c)(6) and (c)(7), respectively; and

e. Add new paragraph (c)(5) as set forth below.

#### **§ 982.306 PHA disapproval of owner.**

\* \* \* \* \*

(c) \* \* \*

(3) The owner has engaged in any drug-related criminal activity or any violent criminal activity;

\* \* \* \* \*

(5) The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity by the tenant, any member of the household, a guest or another person under the control of any member of the household that:

(i) Threatens the right to peaceful enjoyment of the premises by other residents;

(ii) Threatens the health or safety of other residents, of employees of the PHA, or of owner employees or other persons engaged in management of the housing;

(iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or

(iv) Is drug-related criminal activity or violent criminal activity; or

\* \* \* \* \*

52. In § 982.307 revise the section heading and paragraph (a) to read as follows:

**§ 982.307 Tenant screening.**

(a) *PHA option and owner responsibility.* (1) The PHA may opt to screen family behavior or suitability for tenancy. However, the PHA has no liability or responsibility to the owner or other persons for the family's behavior or the family's conduct in tenancy.

(2) The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before PHA approval of the tenancy, the PHA must inform the owner that screening and selection for tenancy is the responsibility of the owner.

(3) The owner is responsible for screening of families on the basis of their tenancy histories. An owner may consider a family's background with respect to such factors as:

(i) Payment of rent and utility bills;

(ii) Caring for a unit and premises;

(iii) Respecting the rights of other residents to the peaceful enjoyment of their housing;

(iv) Drug-related criminal activity or other criminal activity that is a threat to the health, safety or property of others; and

(v) Compliance with other essential conditions of tenancy.

\* \* \* \* \*

53. Revise § 982.308 to read as follows:

**§ 982.308 Lease and tenancy.**

(a) *Tenant's legal capacity to enter lease.* The tenant must have legal capacity to enter a lease under State and local law.

(b) *Owner lease.* The tenant and owner must enter a lease for the unit. The HAP contract shall contain owner's certification that:

(1) The lease between the tenant and the owner is in a standard form used in the locality by the owner and that is generally used for other unassisted tenants in the premises.

(2) The terms and conditions of the lease are consistent with State and local law.

(c) *State and local law.* The PHA may review the lease to determine if the lease complies with State and local law. The PHA may decline to approve the tenancy if the PHA determines that the lease does not comply with State or local law.

(d) *Utilities and appliances.* The lease must specify what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family.

(e) *Reasonable rent.* The rent to owner must be reasonable (see § 982.507).

(f) *Tenancy addendum.* The HAP contract form required by HUD shall include an addendum (the "tenancy addendum"), that sets forth tenancy requirements for the program (in accordance with §§ 982.308, 982.309 and 982.310). All provisions of the HUD-required tenancy addendum must be added word-for-word to the owner's standard form lease that is used by the owner for unassisted tenants. The tenant shall have the right to enforce the tenancy addendum against the owner, and the terms of the tenancy addendum shall prevail over any other provisions of the lease.

54. Revise § 982.309 to read as follows:

**§ 982.309 Term of assisted tenancy.**

(a) *Initial term of lease.* (1) Except as provided in paragraph (a)(2) of this section, the initial lease term must be for at least one year.

(2) The PHA may approve a shorter initial lease term if the PHA determines that:

(i) Such shorter term would improve housing opportunities for the tenant; and

(ii) Such shorter term is the prevailing local market practice.

(3) During the initial term of the lease, the owner may not raise the rent to owner.

(4) The PHA may execute the HAP contract even if there is less than one

year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the consolidated ACC.

(b) *Term of HAP contract.* (1) The term of the HAP contract begins on the first day of the lease term and ends on the last day of the lease term.

(2) The HAP contract terminates if any of the following occurs:

(i) The lease is terminated by the owner or the tenant;

(ii) The PHA terminates the HAP contract; or

(iii) The PHA terminates assistance for the family.

(c) *Family responsibility.* (1) If the family terminates the lease on notice to the owner, the family must give the PHA a copy of the notice of termination at the same time. Failure to do this is a breach of family obligations under the program.

(2) The family must notify the PHA and the owner before the family moves out of the unit. Failure to do this is a breach of family obligations under the program.

55. Amend § 982.310 as follows:

a. Revise paragraphs (a)(1) and (d)(1)(iv) as set forth below;

b. In paragraph (d)(2), revise the reference to "During the first year of the lease term" to read "During the initial lease term,"; and

c. Remove paragraph (e)(3).

**§ 982.310 Owner termination of tenancy.**

(a) \* \* \*

(1) Serious violation (including but not limited to failure to pay rent or other amounts due under the lease) or repeated violation of the terms and conditions of the lease;

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(iv) A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rental).

\* \* \* \* \*

56. Amend § 982.352 by revising paragraph (b)(1) to read as follows:

**§ 982.352 Eligible housing.**

\* \* \* \* \*

(b) *PHA-owned housing.* (1) A unit that is owned by the PHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA) may only be assisted under the tenant-based program if all the following conditions are satisfied:

(i) The PHA must inform the family, both orally and in writing, that the

family has the right to select any eligible unit available for lease, and a PHA-owned unit is freely selected by the family, without PHA pressure or steering.

(ii) The unit is not ineligible housing.

(iii) During assisted occupancy, the family may not benefit from any form of housing subsidy that is prohibited under paragraph (c) of this section.

(iv)(A) The PHA must obtain the services of an independent entity to perform the following PHA functions as required under the program rule:

(1) To determine rent reasonableness in accordance with § 982.507. The independent agency shall communicate the rent reasonableness determination to the family and the PHA.

(2) To assist the family negotiate the rent to owner in accordance with § 982.506.

(3) To inspect the unit for compliance with the HQS in accordance with § 982.305(a) and § 982.405 (except that § 982.405(e) is not applicable). The independent agency shall communicate the results of each such inspection to the family and the PHA.

(B) The independent agency used to perform these functions must be approved by HUD. The independent agency may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government), or may be another HUD-approved independent agency.

(C) The PHA may compensate the independent agency from PHA ongoing administrative fee income for the services performed by the independent agency. The PHA may not use other program receipts to compensate the independent agency for such services. The PHA and the independent agency may not charge the family any fee or charge for the services provided by the independent agency.

\* \* \* \* \*

57. Amend § 982.353 as follows:

a. Revise paragraphs (b), (c)(2), and (d) as set forth below; and

b. In paragraph (f), remove the references to "contract rent (certificate program) or" and "(voucher program)".

**§ 982.353 Where family can lease a unit with tenant-based assistance.**

\* \* \* \* \*

(b) *Portability: Assistance outside the initial PHA jurisdiction.* Subject to paragraph (c) of this section, and to § 982.552 and § 982.553, a voucher-holder or participant family has the right to receive tenant-based voucher assistance in accordance with requirements of this part to lease a unit outside the initial PHA jurisdiction,

anywhere in the United States, in the jurisdiction of a PHA with a tenant-based program under this part. The initial PHA must not provide such portable assistance for a participant if the family has moved out of its assisted unit in violation of the lease.

\* \* \* \* \*

(c) \* \* \*

(2) The following apply during the 12 month period from the time when a family described in paragraph (c)(1) of this section is admitted to the program:

(i) The family may lease a unit anywhere in the jurisdiction of the initial PHA;

(ii) The family does not have any right to portability;

(iii) The initial PHA may choose to allow portability during this period.

\* \* \* \* \*

(d) *Income eligibility.* (1) For admission to the program, a family must be income eligible in the area where the family initially leases a unit with assistance under the program.

(2) If a portable family is a participant in the initial PHA Section 8 tenant-based program (either the PHA voucher program or the PHA certificate program), income eligibility is not redetermined when the family moves to the receiving PHA program under portability procedures.

(3) Except as provided in paragraph (d)(2) of this section, a portable family must be income eligible for admission to the voucher program in the area where the family leases a unit under portability procedures.

\* \* \* \* \*

**§ 982.354 [Removed]**

58. Remove § 982.354.

59. Amend § 982.355 as follows:

a. Revise paragraphs (b), (c)(1) and (c)(6) as set forth below;

b. Amend paragraph (c)(4) by removing the reference to "or certificate";

c. In paragraph (c)(8), revise the reference to "request for lease approval" to read "request for approval of the tenancy" and remove the reference to "certificate or";

d. In paragraph (d)(1), remove the two references to "certificate or"; and

e. In paragraph (d)(6), revise the word "programs" to read "program".

**§ 982.355 Portability: Administration by receiving PHA.**

\* \* \* \* \*

(b) In the conditions described in paragraph (a) of this section, a PHA with jurisdiction in the area where the family wants to lease a unit must issue a voucher to the family. If there is more

than one such PHA, the initial PHA may choose the receiving PHA.

(c) *Portability procedures.* (1) The receiving PHA does not redetermine eligibility for a portable family that was already receiving assistance in the initial PHA Section 8 tenant-based program (either the PHA voucher program or certificate program). However, for a portable family that was not already receiving assistance in the PHA tenant-based program, the initial PHA must determine whether the family is eligible for admission to the receiving PHA voucher program.

\* \* \* \* \*

(6) The receiving PHA must issue a voucher to the family. The term of the receiving PHA voucher may not expire before the expiration date of any initial PHA voucher. The receiving PHA must determine whether to extend the voucher term. The family must submit a request for approval of the tenancy to the receiving PHA during the term of the receiving PHA voucher.

\* \* \* \* \*

60. Revise § 982.401(a)(4) to read as follows:

**§ 982.401 Housing quality standards (HQS).**

(a) \* \* \*

(4)(i) In addition to meeting HQS performance requirements, the housing must meet the acceptability criteria stated in this section, unless variations are approved by HUD.

(ii) HUD may approve acceptability criteria variations for the following purposes:

(A) Variations which apply standards in local housing codes or other codes adopted by the PHA; or

(B) Variations because of local climatic or geographic conditions.

(iii) Acceptability criteria variations may only be approved by HUD pursuant to paragraph (a)(4)(ii) of this section if such variations either:

(A) Meet or exceed the acceptability criteria; or

(B) Significantly expand affordable housing opportunities for families assisted under the program.

(iv) HUD will not approve any acceptability criteria variation if HUD believes that such variation is likely to adversely affect the health or safety of participant families, or severely restrict housing choice.

\* \* \* \* \*

61. Amend § 982.402 as follows:

a. Amend paragraph (a)(3) by removing the references to "certificate or" and "or certificate";

b. Revise paragraph (c) to read as follows:

**§ 982.402 Subsidy standards.**

\* \* \* \* \*

(c) *Effect of family unit size-maximum subsidy in voucher program.* The family unit size as determined for a family under the PHA subsidy standard is used to determine the maximum rent subsidy for a family assisted in the voucher program. For a voucher tenancy, the PHA establishes payment standards by number of bedrooms. The payment standard for a family shall be the lower of:

- (1) The payment standard amount for the family unit size; or
- (2) The payment standard amount for the unit size of the unit rented by the family.

\* \* \* \* \*

62. Amend § 982.403 as follows:

- a. Revise the section heading to read "Terminating HAP contract when unit is too small";
- b. Remove paragraph (a)(1);
- c. Redesignate paragraphs (a)(2) and (a)(3) as paragraphs (a)(1) and (a)(2), respectively;
- d. Amend redesignated paragraph (a)(1) by removing the reference to "certificate or";
- e. Amend paragraph (b)(2) by replacing the word "certificate" with "voucher";
- f. Amend paragraph (b)(4) by removing the phrase "within the FMR/exception rent limit"; and
- g. Revise the introductory text of redesignated paragraph (c) as set forth below.

**§ 982.403 Terminating HAP contract when unit is too small.**

\* \* \* \* \*

(c) *Termination.* When the PHA terminates the HAP contract under paragraph (a) of this section:

- \* \* \* \* \*
63. Amend § 982.405 as follows:
- a. Revise the section heading and paragraph (a) as set forth below; and
  - b. Add paragraph (f) as set forth below.

**§ 982.405 PHA initial and periodic unit inspection.**

(a) The PHA must inspect the unit leased to a family prior to the initial term of the lease, at least annually during assisted occupancy, and at other times as needed, to determine if the unit meets the HQS. (See § 982.305(b)(2) concerning timing of initial inspection by the PHA.)

\* \* \* \* \*

(f) The PHA must adopt procedural guidelines and performance standards for conducting required HQS inspections. The PHA guidelines and standards must conform with practices utilized in the private housing market, and facilitate efficient administration of

assistance under the program. The PHA administrative plan shall state the PHA guidelines and standards for conducting HQS inspections.

64. Revise § 982.451(b)(5) to read as follows:

**§ 982.451 Housing assistance payments contract.**

\* \* \* \* \*

(b) \* \* \*

(5)(i) The PHA must pay the housing assistance payment promptly when due to the owner in accordance with the HAP contract.

(ii) The HAP contract shall provide for penalties against the PHA for late payment of housing assistance payments due to the owner under the contract, where such penalties are in accordance with generally accepted practices and law, as applicable in the local housing market, governing penalties for late payment of rent by a tenant. However, the PHA shall not be obligated to pay any late payment penalty if HUD determines that late payment by the PHA is due to factors beyond the PHA's control. The PHA may add HAP contract provisions which define when the HAP payment by the PHA is deemed received by the owner (e.g. upon mailing by the PHA or actual receipt by the owner).

(iii) The PHA may only use the following sources to pay a late payment penalty from program receipts under the consolidated ACC: administrative fee income for the program; or the administrative fee reserve for the program. The PHA may not use other program receipts for this purpose.

**§ 982.452 [Amended]**

65. Amend § 982.452(b)(1) by removing the reference to "certificate-holder or".

**§ 982.453 [Amended]**

66. In § 982.453(a)(5), revise the reference to "drug-trafficking" to read "drug-related criminal activity".

**§ 982.454 [Amended]**

67. Amend § 982.454 by removing the last sentence.

68. Revise § 982.455 to read as follows:

**§ 982.455 Automatic termination of HAP contract.**

The HAP contract terminates automatically 180 calendar days after the last housing assistance payment to the owner.

69. Revise § 982.456(b) to read as follows:

**§ 982.456 Third parties.**

\* \* \* \* \*

(b)(1) The family is not a party to or third party beneficiary of the HAP

contract. Except as provided in paragraph (b)(2) of this section, the family may not exercise any right or remedy against the owner under the HAP contract.

(2) The tenant may exercise any right or remedy against the owner under the lease between the tenant and the owner, including enforcement of the owner's obligations under the tenancy addendum (which is included both in the HAP contract between the PHA and the owner; and in the lease between the tenant and the owner.)

\* \* \* \* \*

**§§ 982.457, 982.504, 982.505, 982.506, 982.508 and 982.512 [Removed]**

70. Remove §§ 982.457, 982.504, 982.505, 982.506, 982.508, and 982.512.

71. Revise the table of contents for Subpart K to read as follows:

**Subpart K—Rent and Housing Assistance Payment**

982.501 Overview.

982.502 Conversion to voucher program.

982.503 Voucher tenancy: Payment standard amount and schedule.

982.504 Voucher tenancy: Payment standard for family in restructured subsidized multifamily project.

982.505 Voucher tenancy: How to calculate housing assistance payment.

982.506 Negotiating rent to owner.

982.507 Rent to owner; Reasonable rent.

982.508 Rent to owner: Maximum rent at initial occupancy.

982.509 Rent to owner in subsidized projects.

982.513 Other fees and charges.

982.516 Family income and composition: Regular and interim examinations.

982.517 Utility allowance schedule.

982.518 Regular tenancy: How to calculate housing assistance payment.

982.519 Regular tenancy: Annual adjustment of rent to owner.

982.520 Regular tenancy: Special adjustment of rent to owner.

982.521 Regular tenancy: Rent to owner in subsidized project.

72. Revise § 982.501 to read as follows:

**§ 982.501 Overview.**

(a) This subpart describes program requirements concerning the housing assistance payment and rent to owner. These requirements apply to the Section 8 tenant-based program.

(b) There are two types of tenancies in the Section 8 tenant-based program:

(1) A tenancy under the voucher program.

(2) A tenancy under the certificate program (commenced before merger of the certificate and voucher programs on the merger date).



(c) Unless specifically stated, requirements of this part are the same for all tenancies. Sections 982.503, 982.504, and 982.505 only apply to a voucher tenancy. Sections 982.518, 982.519, 982.520, and 982.521 only apply to a tenancy under the certificate program.

**§§ 982.502, 982.503, 982.507, 982.509, 982.510, 982.511, and 982.513**  
**[Redesignated as §§ 982.506, 982.507, 982.518, 982.519, 982.520, 982.509 and 982.510, respectively]**

73. Redesignate §§ 982.502, 982.503, 982.507, 982.509, 982.510, 982.511, and 982.513 as §§ 982.506, 982.507, 982.518, 982.519, 982.520, 982.509, and 982.510, respectively.

74. Add new §§ 982.502, 982.503, 982.504, 982.505, and 982.508 to read as follows:

**§ 982.502 Conversion to voucher program.**

(a) *New HAP contracts.* On and after the merger date, the PHA may only enter into a HAP contract for a tenancy under the voucher program, and may not enter into a new HAP contract for a tenancy under the certificate program.

(b) *Over-FMR tenancy.* If the PHA had entered into any HAP contract for an over-FMR tenancy under the certificate program prior to the merger date, on and after the merger date such tenancy shall be considered and treated as a tenancy under the voucher program, and shall be subject to the voucher program requirements under this part, including calculation of the voucher housing assistance payment in accordance with § 982.505. However, § 982.505(b)(2) shall not be applicable for calculation of the housing assistance payment prior to the effective date of the second regular reexamination of family income and composition on or after the merger date.

(c) *Voucher tenancy.* If the PHA had entered into any HAP contract for a voucher tenancy prior to the merger date, on and after the merger date such tenancy shall continue to be considered and treated as a tenancy under the voucher program, and shall be subject to the voucher program requirements under this part, including calculation of the voucher housing assistance payment in accordance with § 982.505. However, § 982.505(b)(2) shall not be applicable for calculation of the housing assistance payment prior to the effective date of the second regular reexamination of family income and composition on or after the merger date.

(d) *Regular certificate tenancy.* The PHA must terminate program assistance under any outstanding HAP contract for a regular tenancy under the certificate program (entered prior to the merger

date) at the effective date of the second regular reexamination of family income and composition on or after the merger date. Upon such termination of assistance, the HAP contract for such tenancy terminates automatically. The PHA must give at least 120 days written notice of such termination to the family and the owner, and the PHA must offer the family the opportunity for continued tenant-based assistance under the voucher program. The PHA may deny the family the opportunity for continued assistance in accordance with §§ 982.552 and 982.553.

**§ 982.503 Voucher tenancy: Payment standard amount and schedule.**

(a) *Payment standard schedule.* (1) HUD publishes the fair market rents for each market area in the United States (see part 888 of this title). The PHA must adopt a payment standard schedule that establishes voucher payment standard amounts for each FMR area in the PHA jurisdiction. For each FMR area, the PHA must establish payment standard amounts for each "unit size." Unit size is measured by number of bedrooms (zero-bedroom, one-bedroom, and so on).

(2) The payment standard amounts on the PHA schedule are used to calculate the monthly housing assistance payment for a family (§ 982.505).

(3) The PHA voucher payment standard schedule shall establish a single payment standard for each unit size in an FMR area and, if applicable, in an exception payment standard area within an FMR area.

(b) *Establishing payment standard amounts.* (1)(i) The PHA may establish the payment standard amount for a unit size at any level between 90 percent and 110 percent of the published FMR for that unit size. HUD approval is not required to establish a payment standard amount in that range ("basic range").

(ii) The PHA may establish a separate payment standard within the basic range for a designated part of an FMR area.

(2) The PHA must request HUD approval to establish a payment standard amount that is higher or lower than the basic range. HUD has sole discretion to grant or deny approval of a higher or lower payment standard amount. Paragraph (c) of this section describes the requirements for approval of a higher payment standard amount ("exception payment standard amount").

(c) *HUD approval of exception payment standard amount.* (1) *HUD discretion.* At HUD's sole discretion, HUD may approve a payment standard

amount that is higher than the basic range for a designated part of the fair market rent area (called an "exception area"). HUD may approve an exception payment standard amount in accordance with this paragraph (c) of this section for all units, or for all units of a given unit size, leased by program families in the exception area. Any PHA with jurisdiction in the exception area may use the HUD-approved exception payment standard amount.

(2) *Above 110 percent of FMR to 120 percent of FMR.* The HUD Field Office may approve an exception payment standard amount from above 110 percent of the published FMR to 120 percent of the published FMR if such office determines that such approval is justified by either the median rent method or the 40th percentile rent as described below (and that such approval is also supported by an appropriate program justification in accordance with paragraph (c)(4) of this section).

(i) *Median rent method.* In the median rent method, HUD determines the exception payment standard amount by multiplying the FMR times a fraction of which the numerator is the median gross rent of the exception area and the denominator is the median gross rent of the entire FMR area. In this method, HUD uses median gross rent data from the most recent decennial United States census, and the exception area may be any geographic entity within the FMR area (or any combination of such entities) for which median gross rent data is provided in decennial census products.

(ii) *40th percentile rent method.* In this method, HUD determines that the area exception rent equals the 40th percentile of rents to lease standard quality rental housing in the exception area. HUD determines the 40th percentile rent in accordance with the methodology described in § 888.113 of this title for determining fair market rents. A PHA must present statistically representative rental housing survey data to justify HUD approval.

(3) *Above 120 percent of FMR.* (i) At the request of a PHA, the Assistant Secretary for Public and Indian Housing may approve an exception payment standard amount for the total area of a county, PHA jurisdiction, or place if the Assistant Secretary determines that:

(A) Such approval is necessary to prevent financial hardship for families;

(B) Such approval is supported by statistically representative rental housing survey data to justify HUD approval in accordance with the methodology described in § 888.113 of this title; and

(C) Such approval is also supported by an appropriate program justification in accordance with paragraph (c)(4) of this section.

(ii) For purposes of paragraph (c)(3) of this section, the term "place" is an incorporated place or a U.S. Census designated place. An incorporated place is established by State law and includes cities, boroughs, towns, and villages. A U.S. Census designated place is the statistical counterpart of an incorporated place.

(4) *Program justification.* (i) HUD will only approve an exception payment standard amount (pursuant to paragraph (c)(2) or paragraph (c)(3) of this section) if HUD determines that approval of such higher amount is needed either:

(A) To help families find housing outside areas of high poverty, or

(B) Because voucher holders have trouble finding housing for lease under the program within the term of the voucher.

(ii) HUD will only approve an exception payment standard amount (pursuant to paragraph (c)(3) of this section) after six months from the date of HUD approval of an exception payment standard pursuant to paragraph (c)(2) of this section for the area.

(5) *Population.* The total population of HUD-approved exception areas in an FMR area may not include more than 50 percent of the population of the FMR area.

(6) *Withdrawal or modification.* At any time, HUD may withdraw or modify approval to use an exception payment standard amount.

(7) *Transition: Area exception rents approved prior to merger date.* Subject to paragraph (c)(6) of this section, the PHA may establish an exception payment standard amount up to the amount of a HUD-approved area exception rent in effect at the merger date.

(d) *HUD review of PHA payment standard schedule.* (1) HUD will monitor rent burdens of families assisted in a PHA's voucher program. If 40 percent or more of such families occupying units of any particular unit size pay more than 30 percent of adjusted income as the family's share, HUD will review the PHA payment standard amount for that unit size, and may require the PHA to establish an increased payment standard amount within the basic range.

(2) Upon such HUD review, HUD may require the PHA to modify the payment standard amounts on the PHA payment standard schedule.

**§ 982.504 Voucher tenancy: Payment standard for family in restructured subsidized multifamily project.**

(a) This section applies to tenant-based assistance under the voucher program if all the following conditions are applicable:

(1) Such tenant-based voucher assistance is provided to a family pursuant to § 401.421 of this title when HUD has approved a restructuring plan, and the participating administrative entity has approved the use of tenant-based assistance to provide continued assistance for such families. Such tenant-based voucher assistance is provided for a family previously receiving project-based assistance in an eligible project (as defined in § 401.2 of this title) at the time when the project-based assistance terminates.

(2) The family chooses to remain in the restructured project with tenant-based assistance under the program and leases a unit that does not exceed the family unit size;

(3) The lease for such assisted tenancy commences during the first year after the project-based assistance terminates.

(b) The initial payment standard for the family under such initial lease is the sum of the reasonable rent to owner for the unit plus the utility allowance for tenant-paid utilities. (Determination of such initial payment standard for the family is not subject to paragraphs (c)(1) and (c)(2) of § 982.505. Except for determination of the initial payment standard as specifically provided in paragraph (b) of this section, the payment standard and housing assistance payment for the family during the HAP contract term shall be determined in accordance with § 982.505.)

**§ 982.505 Voucher tenancy: How to calculate housing assistance payment.**

(a) *Use of payment standard.* A payment standard is used to calculate the monthly housing assistance payment for a family. The "payment standard" is the maximum monthly subsidy payment.

(b) *Amount of monthly housing assistance payment.* The PHA shall pay a monthly housing assistance payment on behalf of the family that is equal to the lower of:

(1) The payment standard minus the total tenant payment; or

(2) The gross rent minus the total tenant payment.

(c) *Payment standard for family.* (1) The payment standard is the lower of:

(i) The payment standard amount for the family unit size; or

(ii) The payment standard amount for the size of the dwelling unit rented by the family.

(2) If the dwelling unit is located in an exception area, the PHA must use the appropriate payment standard amount for the exception area.

(3) During the HAP contract term, the payment standard for a family is the higher of:

(i) The initial payment standard (at the beginning of the HAP contract term), as determined in accordance with paragraphs (c)(1) and (c)(2) of this section, minus any amount by which the initial rent to owner exceeds the current rent to owner; or

(ii) The payment standard, as determined in accordance with paragraphs (c)(1) and (c)(2) of this section, as determined at the most recent regular reexamination of family income and composition effective after the beginning of the HAP contract term.

(4) At the next regular reexamination following a change in family size or composition that causes a change in family unit size during the HAP contract term, and for any examination thereafter during the term:

(i) Paragraph (c)(3)(i) of this section does not apply; and

(ii) The new family unit size must be used to determine the payment standard.

**§ 982.508 Rent to owner: maximum rent at initial occupancy.**

At the time a family initially receives tenant-based assistance for occupancy of a dwelling unit, the family share may not exceed 40 percent of the family's monthly adjusted income.

**§ 982.509 [Amended]**

74a. Revise the section heading of newly designated § 982.509 to read "Rent to owner in subsidized projects."

75. Amend § 982.516 as follows:

a. Revise paragraph (d)(2) as set forth below;

b. Amend paragraph (e) by removing the reference to "and family unit size"; and

c. Add paragraph (f) as set forth below.

**§ 982.516 Family income and composition: Regular and interim examinations.**

\* \* \* \* \*

(d) \* \* \*

(2) At the effective date of a regular or interim reexamination, the PHA must make appropriate adjustments in the housing assistance payment. (For a voucher tenancy, the housing assistance payment shall be calculated in accordance with § 982.505. For a certificate tenancy, the housing assistance payment shall be calculated in accordance with § 982.518.)

\* \* \* \* \*

(f) *Accuracy of family income data.* The PHA must establish procedures that

are appropriate and necessary to assure that income data provided by applicant or participant families is complete and accurate.

76. Add § 982.521 to read as follows:

**§ 982.521 Regular tenancy: Rent to owner in subsidized project.**

For a certificate tenancy in an insured or non-insured Section 236 project, a Section 515 project of the Rural Development Administration, a Section 202 project or a Section 221(d)(3) below market interest rate project, the rent to owner is the basic rental charge (as defined in 12 U.S.C. 1715z-1(f)(1), minus any utility allowance for tenant-paid utilities). The rent to owner may not be adjusted by applying the published Section 8 annual adjustment factor, and a special adjustment may not be approved.

**§ 982.551 [Amended]**

77. In § 982.551, amend paragraph (b)(2) by removing the second sentence, and in paragraph (b)(3) remove the phrase "and 24 CFR part 813".

78. Amend § 982.552 as follows:

- a. Amend paragraph (a)(2) to remove the phrase "certificate or";
- b. Revise paragraphs (b) and (c) as set forth below;
- c. Remove paragraphs (d) and (e); and
- d. Redesignate paragraph (f) as paragraph (d).

**§ 982.552 PHA denial or termination of assistance for family.**

\* \* \* \* \*

(b) *Requirement to deny admission or terminate assistance.* (1) During a reasonable time period determined by the PHA, the PHA may not admit a family to the program if any member of the family has been evicted from federally assisted housing for serious violation of the lease.

(2) The PHA must terminate program assistance for a family evicted from housing assisted under the program for serious violation of the lease.

(3) The PHA must deny admission to the program for an applicant, or terminate program assistance for a participant, if any member of the family fails to sign and submit consent forms for obtaining information in accordance with part 5, subparts B and F of this title.

(4) The family must submit required evidence of citizenship or eligible immigration status. See part 5 of this title for a statement of circumstances in which the PHA must deny admission or terminate program assistance because a family member does not establish citizenship or eligible immigration status, and the applicable informal hearing procedures.

(c) *Authority to deny admission or terminate assistance.* (1) *Grounds for denial or termination of assistance.* The PHA may at any time deny program assistance for an applicant, or terminate program assistance for a participant, for any of the following grounds:

(i) If the family violates any family obligations under the program (see § 982.551). See § 982.553 concerning denial or termination of assistance for crime by family members.

(ii) If any member of the family has ever been evicted from public housing.

(iii) If a PHA has ever terminated assistance under the program for any member of the family.

(iv) If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program.

(v) If the family currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

(vi) If the family has not reimbursed any PHA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.

(vii) If the family breaches an agreement with the PHA to pay amounts owed to a PHA, or amounts paid to an owner by a PHA. (The PHA, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to a PHA or amounts paid to an owner by a PHA. The PHA may prescribe the terms of the agreement.)

(viii) If a family participating in the FSS program fails to comply, without good cause, with the family's FSS contract of participation.

(ix) If the family has engaged in or threatened abusive or violent behavior toward PHA personnel.

(x) If the family fails to fulfill its obligations under the Section 8 welfare-to-work voucher program.

(2) *PHA discretion to consider circumstances.* In deciding whether to deny admission or terminate assistance because of action or failure to act by members of the family, the PHA has discretion to consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure.

(3) *Exclusion of family members.* In determining whether to deny admission or terminate assistance, the PHA may impose, as a condition of continued

assistance for other family members, a requirement that family members who participated in or were culpable for the action or failure will not reside in the unit. The PHA may permit the other members of a participant family to continue receiving assistance.

\* \* \* \* \*

79. Amend § 982.554 as follows:

a. In paragraph (c)(4), remove the phrase "certificate or";

b. Revise paragraph (c)(5) to read as follows:

**§ 982.554 Informal review for applicant.**

\* \* \* \* \*

(c) \* \* \*

(5) A PHA determination not to grant approval of the tenancy.

\* \* \* \* \*

**§ 982.555 [Amended]**

80. In § 982.555, amend paragraph (b)(4) by removing the phrase "certificate or".

81. Revise § 982.602 to read as follows:

**§ 982.602 SRO: Who may reside in an SRO?**

A single person may reside in an SRO housing unit.

82. Revise § 982.604 to read as follows:

**§ 982.604 SRO: Voucher housing assistance payment.**

(a) For a person residing in SRO housing, the payment standard is 75 percent of the zero-bedroom payment standard amount on the PHA payment standard schedule. For a person residing in SRO housing in an exception area, the payment standard is 75 percent of the HUD-approved zero-bedroom exception payment standard amount.

(b) The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero bedroom utility allowance.

83. In § 982.608 revise the section heading and paragraph (a) to read as follows:

**§ 982.608 Congregate housing: Voucher housing assistance payment.**

(a) Unless there is a live-in aide:

(1) For a family residing in congregate housing, the payment standard is the zero-bedroom payment standard amount on the PHA payment standard schedule. For a family residing in congregate housing in an exception area, the payment standard is the HUD-approved zero-bedroom exception payment standard amount.

(2) However, if there are two or more rooms in the unit (not including kitchen or sanitary facilities), the payment standard for a family residing in

congregate housing is the one-bedroom payment standard amount.

\* \* \* \* \*

84. Amend § 982.613 as follows:

a. Revise the section heading as set forth below;

b. In paragraph (b)(2), revise the reference to “§ 982.503” to read “§ 982.507”; and

Revise paragraph (c) as set forth below.

**§ 982.613 Group home: Rent and voucher housing assistance payment.**

\* \* \* \* \*

(c) *Payment standard.* (1) *Family unit size.* (i) Unless there is a live-in aide, the family unit size is zero or one bedroom.

(ii) If there is a live-in aide, the live-in aide must be counted in determining the family unit size.

(2) The payment standard for a person who resides in a group home is the lower of:

(i) The payment standard amount on the PHA payment standard schedule for the family unit size; or (ii) The pro-rata portion of the payment standard amount on the PHA payment standard schedule for the group home size.

(iii) If there is a live-in aide, the live-in aide must be counted in determining the family unit size.

\* \* \* \* \*

85. Amend § 982.617 as follows:

a. Revise the section heading to read as set forth below;

b. In paragraph (b)(2) revise the reference to “§ 982.503” to read “§ 982.507”; and

c. Revise paragraph (c) to read as follows:

**§ 982.617 Shared housing: Rent and voucher housing assistance payment.**

\* \* \* \* \*

(c) *Payment standard.* The payment standard for a family that resides in a shared housing is the lower of:

(1) The payment standard amount on the PHA payment standard schedule for the family unit size; or

(2) The pro-rata portion of the payment standard amount on the PHA payment standard schedule for the size of the shared housing unit.

\* \* \* \* \*

**§ 982.619 [Amended]**

86. Amend § 982.619 as follows:

a. In paragraph (b)(1), revise the reference to “§ 982.503” to read “§ 982.507”; and

b. In paragraph (b)(4), revise the reference to “§ 982.509” to read “§ 982.519” and revise the reference to “§ 982.510” to read “§ 982.520”.

87. Revise § 982.623 to read as follows:

**§ 982.623 Manufactured home space rental: Housing assistance payment.**

(a) *Fair market rent.* The FMR for a manufactured home space is determined in accordance with § 888.113(e) of this title.

(b) *Housing assistance payment: For certificate tenancy.* (1) During the term of a certificate tenancy (entered prior to the merger date), the amount of the monthly housing assistance payment equals the lesser of the amounts specified in paragraphs (b)(1)(i) or (b)(1)(ii) of this section:

(i) Manufactured home space cost minus the total tenant payment.

(ii) The rent to owner for the manufactured home space.

(2) “Manufactured home space cost” means the sum of:

(i) The amortization cost,

(ii) The utility allowance, and

(iii) The rent to owner for the manufactured home space.

(c) *Housing assistance payment for voucher tenancy.* (1) There is a separate FMR for a family renting a manufactured home space. The FMR for rental of a manufactured home space is 30 percent of the published FMR for a two-bedroom unit (see FMR notices published by HUD pursuant to part 888 of this title).

(2) The payment standard shall be determined in accordance with § 982.505.

(3) The PHA shall pay a monthly housing assistance payment on behalf of the family that is equal to the lower of:

(i) The payment standard minus the total tenant payment; or

(ii) The rent paid for rental of the real property on which the manufactured home owned by the family is located (“space rent”) minus the total tenant payment.

(4) The space rent is the sum of the following as determined by the PHA:

(i) Rent to owner for the manufactured home space;

(ii) Owner maintenance and management charges for the space;

(iii) The utility allowance for tenant-paid utilities.

Dated: April 21, 1999

**Andrew Cuomo,**  
Secretary.

[FR Doc. 99-12082 Filed 5-13-99; 8:45 am]

BILLING CODE 4210-32-P