

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT****Office of the Assistant Secretary for Community Planning and Development****24 CFR Part 882**

[Docket No. FR-3929-I-01]

RIN 2506-AB75

**Section 8 Moderate Rehabilitation Single Room Occupancy Program for Homeless Individuals; Amendments**

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Interim rule.

**SUMMARY:** This interim rule amends HUD's regulations for the Section 8 Moderate Rehabilitation Single Room Occupancy Program for Homeless Individuals at 24 CFR part 882, subpart H. These amendments conform the program regulations with statutory and regulatory changes. The amendments will clarify and update the regulations according to current requirements.

**DATES:** Effective date: March 15, 1996. Comments due date: April 15, 1996.

**ADDRESSES:** Interested persons are invited to submit comments regarding this interim rule to the Office of General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410-0500. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying on weekdays between 7:30 a.m. and 5:30 p.m. at the above address. Comments sent by FAX are not acceptable.

**FOR FURTHER INFORMATION CONTACT:** Maggie H. Taylor, Director, Office of Special Needs Assistance Programs, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; (202) 708-4300; TTY for persons who are deaf, hard-of-hearing, or who have speech impairments (202) 708-2565. (Telephone numbers are not toll-free.)

**SUPPLEMENTARY INFORMATION:****Background**

This interim rule makes several changes to conform the Section 8 Moderate Rehabilitation Single Room Occupancy (SRO) program regulations with statutory and regulatory changes. First, this interim rule eliminates the remaining provisions on the required use of housing authority (HA) waiting

lists. In an interim rule published on March 15, 1993 (58 FR 13828), HUD conformed the process for selecting homeless persons for participation in the SRO program with the process used in HUD's other homeless programs. In place of the HA waiting list process, the interim rule required that HAs and/or Owners engage in outreach efforts to bring homeless individuals into the program, and that vacant units be rented directly to homeless individuals located through these outreach efforts. This interim rule deletes the remaining references to HA waiting lists that HUD inadvertently overlooked. This interim rule also clarifies the role of HAs in helping to identify homeless individuals during the outreach process (§ 882.808(a)(1)).

Second, this interim rule conforms the program regulations with section 1405 of the Housing and Community Development Act of 1992 (Pub. L. 102-550, approved October 28, 1992), which amended the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401). This statutory amendment includes a requirement for the participation of homeless individuals in considering and making policies and decisions regarding rehabilitation of structures receiving assistance under this program, and for the involvement of homeless individuals in the rehabilitation and operation of these structures. This interim rule implements the requirement at § 882.808(q).

The statutory amendment also requires a formal process for terminating assistance to individuals who violate program requirements. HUD has determined that the existing requirements for the termination of tenancy at § 882.808(l) sufficiently protect the rights of homeless individuals and should serve to prevent abuses such as lack of notice. Therefore, no change to the regulations is necessary to implement the requirement. (Note: This interim rule does not change the lawful grounds for terminating assistance. Termination of assistance due to unwillingness to accept supportive services or other activities that do not of themselves constitute a violation of the housing lease are not allowed.)

The statutory amendment further provides that private nonprofit organizations can apply directly for SRO assistance. Prior to the amendments, the only eligible applicants under the program were public housing agencies and Indian housing authorities. To implement this change, the interim rule adds definitions of "applicant" and "private nonprofit organization" at § 882.802. This revised section further

provides that HUD will require private nonprofit applicants to subcontract with public housing agencies to administer their rental assistance.

Third, this interim rule conforms the program regulations with the environmental review procedures in 24 CFR part 58. The Multifamily Housing Property Disposition Reform Act of 1994 (Pub. L. 103-233, approved April 11, 1994) made these procedures applicable to the Section 8 Moderate Rehabilitation SRO program, and HUD published implementing regulations in the Federal Register on March 13, 1995 (60 FR 13518). Under part 58, it is the HA's responsibility to obtain an agreement with the responsible entity designated under part 58 for the performance of environmental reviews.

Fourth, this interim rule revises the provision on project eligibility at § 882.803(a)(2). This interim rule will provide that housing is ineligible for assistance under this program if it is receiving Federal funding for rental assistance or operating costs under other HUD programs. The current regulation provides that housing is not eligible for assistance if it is, or has been within 12 months before the Owner submits a proposal, subsidized under any Federal housing program. A number of nonprofit organizations and PHAs have requested clarification of the term "subsidized," and have indicated that the 12-month restriction eliminates a number of otherwise excellent facilities from consideration for SRO assistance. In response to these comments, HUD is revising this provision by adopting the clearer, less restrictive standard used in its Shelter Plus Care program. Under the revised standard, there is no restriction on the use of other Federal funding for acquisition and rehabilitation costs.

Fifth, this interim rule eliminates an obsolete date reference in the provisions for determining the maximum amount of rehabilitation allowable in the program. Although § 882.805(g)(1)(ii)(A) provides that the rehabilitation cost calculation should use the HUD-approved High Cost Percentage for Base Cities in use before April 1988, HUD recalculates this percentage periodically. Therefore, this interim rule will eliminate the date reference so that a more recent percentage can be used.

Finally, this interim rule corrects an error in a final rule published in the Federal Register on June 6, 1994 (59 FR 29326). That rule, which conformed HUD's regulations with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and its implementing regulations at 49 CFR part 24, added

§ 882.810 and intended to remove much of § 882.803(d). However, the most recent codification of part 882 (April 1, 1995) included both § 882.810 and § 882.803(d) in its entirety. Therefore, in order to correct the error, this rule removes much of § 882.803(d).

**Justification for Interim Rulemaking**

HUD generally publishes a rule for public comment before issuing a rule for effect, in accordance with its regulations on rulemaking at 24 CFR part 10. However, part 10 provides that prior public procedure will be omitted if HUD determines that it is "impracticable, unnecessary, or contrary to the public interest" (24 CFR 10.1). With this interim rule, HUD is merely correcting several minor oversights and conforming the SRO regulations to statutory or regulatory provisions that are already effective. Therefore, HUD finds that prior public procedure would be unnecessary. However, HUD is inviting public comments for 60 days, after which it will consider the relevant issues raised by the commenters in developing a final rule.

**Other Matters**

**Environmental Impact**

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). 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 the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street SW, Washington, DC 20410.

**Executive Order 12606, The Family**

The General Counsel, as the designated official under Executive Order 12606, *The Family*, has determined that this interim rule does not have potential for significant impact on family formation, maintenance, and general well-being. To the extent that this interim rule benefits homeless individuals, it would benefit the families of such individuals. Since any effect of the interim rule would be beneficial, this interim rule is not subject to review under the Order.

**Executive Order 12612, Federalism**

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies in this interim rule will not have substantial direct effects on States or their political

subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. This interim rule is limited to conforming the regulations with statutory and regulatory requirements. Therefore the interim rule is not subject to review under the Order.

**Regulatory Flexibility Act**

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this interim rule before publication and by approving it certifies that this interim rule does not have a significant economic impact on a substantial number of small entities. Specifically, the interim rule is limited to making conforming changes to the program regulations.

**List of Subjects in 24 CFR Part 882**

Grant programs—housing and community development, Homeless, Lead poisoning, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, 24 CFR part 882 is amended as follows:

**PART 882—SECTION 8 CERTIFICATE AND MODERATE REHABILITATION PROGRAMS**

1. The authority citation for part 882 continues to read as follows:

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

2. Section 882.802 is amended by adding definitions for the terms "applicant" and "private nonprofit organization" in alphabetical order, to read as follows:

**§ 882.802 Definitions.**

*Applicant.* A public housing agency or Indian housing authority (collectively referred to as housing agencies or HAs), or a private nonprofit organization that applies for assistance under this program. HUD will require private nonprofit applicants to subcontract with public housing agencies to administer their rental assistance.

*Private nonprofit organization.* An organization, no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual. The organization must:

- (1) Have a voluntary board;
- (2) Have a functioning accounting system that is operated in accordance with generally accepted accounting principles, or designate an entity that will maintain a functioning accounting system for the organization in

accordance with generally accepted accounting principles; and

(3) Practice nondiscrimination in the provision of assistance.

\* \* \* \* \*

3. Section 882.803 is amended by revising paragraphs (a)(2) and (d) to read as follows:

**§ 882.803 Project eligibility and other requirements.**

(a) \* \* \*  
 (2) Housing is not eligible for assistance under this program if it is receiving Federal funding for rental assistance or operating costs under other HUD programs.

\* \* \* \* \*

(d) *Relocation.* A project assisted under this subpart H is subject to the requirements of § 882.810.

\* \* \* \* \*

4. Section 882.804 is amended by revising paragraph (d) to read as follows:

**§ 882.804 Other Federal requirements.**

\* \* \* \* \*

(d) The environmental review requirements of 24 CFR part 58, implementing the National Environmental Policy Act and related environmental laws and authorities listed in 24 CFR 58.5, are applicable to this program.

5. Section 882.805 is amended by removing and reserving paragraph (d), and by revising paragraph (g)(1)(ii)(A) to read as follows:

**§ 882.805 PHA application process, HUD review and selection, ACC execution, and pre-rehabilitation activities.**

\* \* \* \* \*

(d) [Reserved]

\* \* \* \* \*

(g) \* \* \*  
 (1) \* \* \*  
 (ii) \* \* \*

(A) HUD may approve a higher per unit amount up to, but not to exceed, an amount computed by multiplying the HUD-approved High Cost Percentage for Base Cities (used for computing FHA high cost area adjustments) for the area, by the current published cost limitation plus the cost of the required fire and safety improvements.

\* \* \* \* \*

6. Section 882.808 is amended by:

- a. Revising paragraph (a)(1);
- b. Removing paragraphs (a)(3), (b)(2), and (b)(4);
- c. Redesignating paragraph (a)(4) as paragraph (a)(3) and revising it;
- d. Redesignating paragraph (b)(3) as paragraph (b)(2);
- e. Redesignating paragraphs (b)(5) through (b)(7) as paragraphs (b)(3) through (b)(5), respectively; and

f. Adding a new paragraph (q), to read as follows:

**§ 882.808 Management.**

(a) *Outreach to homeless individuals and appropriate organizations.* (1) The HA or the Owner shall undertake outreach efforts to homeless individuals so that they may be brought into the program. The outreach effort should include notification to emergency shelter providers and other organizations that could provide referrals of homeless individuals. In cases where the owner conducts the outreach effort, the HA shall be notified so that it may provide referrals of homeless individuals.

\* \* \* \* \*

(3) *First priority for homeless individuals.* Homeless individuals shall

have a first priority for occupancy of housing rehabilitated under this program.

\* \* \* \* \*

(q) *Participation of homeless individuals.* (1) Each approved applicant receiving assistance under this program, except HAs, shall provide for the participation of not less than one homeless individual or formerly homeless individual on the board of directors or other equivalent policymaking entity of such applicant, to the extent that the entity considers and makes policies and decisions regarding the rehabilitation of any housing with assistance under this subpart. This requirement is waived if the applicant is unable to meet this requirement and presents a plan that

HUD approves to consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

(2) To the maximum extent practicable, each approved applicant must involve homeless individuals and families, through employment, volunteer services, or otherwise, in rehabilitating and operating facilities assisted under this subpart, and in providing services for occupants of such facilities.

Dated: January 18, 1996.  
Andrew M. Cuomo,  
*Assistant Secretary for Community Planning and Development.*

[FR Doc. 96-3275 Filed 2-13-96; 8:45 am]

BILLING CODE 4210-29-P