

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**Office of the Secretary**

24 CFR Parts 5, 200, 247, 572, 750, 760, 882, 886, 887, 913, 950, 960, 982, and 983

[Docket No. FR-3992-F-01]

RIN 2501-AC13

Disclosure and Verification of Social Security Numbers and Employer Identification Numbers, and Procedures for Obtaining Income Information; Streamlining Final Rule

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends HUD's regulations for the disclosure and verification of social security numbers and employer identification numbers, and procedures for obtaining income information. In an effort to comply with the President's regulatory reform initiatives, this rule will streamline these regulations as they exist in several parts by eliminating provisions that are redundant and are otherwise unnecessary. In addition, this final rule consolidates these regulations into 24 CFR part 5 and updates the rule with new statutory references.

EFFECTIVE DATE: April 17, 1996.

FOR FURTHER INFORMATION CONTACT: Camille Acevedo, Assistant General Counsel for Regulations, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone number (202) 708-2084 (this is not a toll-free number). For hearing- or speech-impaired persons, this number may be accessed via TDD by calling the Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION: On March 4, 1995, President Clinton issued a memorandum to all Federal departments and agencies regarding regulatory reinvention. In response to this memorandum, HUD conducted a page-by-page review of its regulations to determine which can be eliminated, consolidated, or otherwise improved. HUD has determined that the regulations for the disclosure and verification of social security numbers and employer identification numbers and the procedures for obtaining income information can be improved and streamlined by eliminating unnecessary provisions.

Several provisions in the regulations apply to more than one program, and therefore HUD repeated these provisions

in different subparts. This repetition is unnecessary, and updating these scattered provisions is cumbersome and often creates confusion. Therefore, this final rule will consolidate these duplicative provisions, maintaining appropriate cross-references for the reader's convenience. In accomplishing this consolidation, this final rule also updates cross-references to applicable program regulations, some of which have changed as a result of other rules that have reinvented HUD's regulations.

Several provisions also repeated statutory language from section 165 of the Housing and Community Development Act of 1987 (42 U.S.C. 3543) and section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 3544). It is unnecessary to maintain statutory requirements in the Code of Federal Regulations (CFR), since those requirements are otherwise fully accessible and binding. Furthermore, if regulations contain statutory language, HUD must amend the regulations whenever Congress amends the statute. Therefore, this final rule will remove repetitious statutory language and replace it with a citation to the specific statutory section for easy reference.

Finally, this rule includes updated references to income information obtained pursuant to statutory authority through computer matches with other Federal agencies. These references merely reflect existing authority and responsibilities that were not otherwise acknowledged in the regulations.

Justification for Final Rulemaking

HUD generally publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking in 24 CFR part 10. However, part 10 provides for exceptions to the general rule if the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest" (24 CFR 10.1). HUD finds that good cause exists to publish this rule for effect without first soliciting public comment. This rule merely removes unnecessary regulatory provisions and reflects existing authority and responsibilities; the rule does not establish or affect substantive policy. Therefore, prior public comment is unnecessary.

Other Matters

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C.

605(b)), has reviewed and approved this final rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule merely streamlines regulations by removing unnecessary provisions. The rule will have no adverse or disproportionate economic impact on small businesses.

Environmental Impact

This rulemaking does not have an environmental impact. This rulemaking simply amends existing regulations by consolidating and streamlining provisions and does not alter the environmental effect of the regulations being amended. Findings of No Significant Impact with respect to the environment were made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) at the time of development of regulations implementing the statutory requirements (see Docket Nos. FR-2501; FR-2588; FR-2854; and FR-2974). Those findings remain applicable to this rule, and are available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that this rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. No programmatic or policy changes will result from this rule that would affect the relationship between the Federal Government and State and local governments.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this rule will not have the potential for significant impact on family formation, maintenance, or general well-being, and thus is not subject to review under the Order. No significant change in existing HUD policies or programs will result from promulgation of this rule.

List of Subjects

24 CFR Part 5

Administrative practice and procedure, Aged, Claims, Drug abuse, Drug traffic control, Grant programs—housing and community development, Grant programs—Indians, Grant programs—low and moderate income housing, Indians, Individuals with disabilities, Intergovernmental relations, Loan programs—housing and community development, Low and moderate income housing, Mortgage insurance, Penalties, Pets, Public housing, Rent subsidies, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Home improvement, Housing standards, Incorporation by reference, Lead poisoning, Loan programs—housing and community development, Minimum property standards, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

24 CFR Part 247

Grant programs—housing and community development, Loan programs—housing and community development, Low and moderate income housing, Rent subsidies.

24 CFR Part 572

Condominiums, Cooperatives, Fair housing, Government property, Grant programs—housing and community development, Low and moderate income housing, Nonprofit organizations, Reporting and recordkeeping requirements.

24 CFR Part 750

Grant programs—housing and community development, Indians, Intergovernmental relations, Loan programs—housing and community development, Public housing, Rent subsidies, Reporting and recordkeeping requirements, Social security.

24 CFR Part 760

Grant programs—housing and community development, Income verification procedures, Indians, Intergovernmental relations, Loan programs—housing and community development, Penalties, Public housing, Rent subsidies, Reporting and recordkeeping requirements, Wages.

24 CFR Part 882

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

24 CFR Part 886

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

24 CFR Part 887

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

24 CFR Part 913

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

24 CFR Part 950

Aged, Grant programs—housing and community development, Grant programs—Indians, Indians, Individuals with disabilities, Low and moderate income housing, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 960

Aged, Grant programs—housing and community development, Individuals with disabilities, Public housing.

24 CFR Part 982

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

24 CFR Part 983

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

For the reasons set out in the preamble, under the authority of 42 U.S.C. 3535(d), title 24 of the Code of Federal Regulations is amended by amending parts 5, 200, 247, 572, 882, 886, 887, 913, 950, 960, 982, and 983, and by removing parts 750 and 760, as follows:

PART 5—GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS

1. The authority citation for part 5 is revised to read as follows:

Authority: 12 U.S.C. 101r-1; 42 U.S.C. 3535(d), 3543, 3544, and 11901 *et seq.*

2. A new subpart B is added to read as follows:

Subpart B—Disclosure and Verification of Social Security Numbers and Employer Identification Numbers; Procedures for Obtaining Income Information

Sec.

- 5.210 Purpose, applicability, and Federal preemption.
5.212 Compliance with the Privacy Act and other requirements.
5.214 Definitions.

Disclosure and Verification of Social Security Numbers and Employer Identification Numbers for Applicants and Participants in Certain HUD Programs

- 5.216 Disclosure and verification of Social Security and Employer Identification Numbers.
5.218 Penalties for failing to disclose and verify Social Security and Employer Identification Numbers.

Procedures for Obtaining Income Information About Applicants and Participants

- 5.230 Consent by assistance applicants and participants.
5.232 Penalties for failing to sign consent forms.
5.234 Requests for information from SWICAs and Federal agencies; restrictions on use.
5.236 Procedures for termination, denial, suspension, or reduction of assistance based on information obtained from a SWICA or Federal agency.
5.238 Criminal and civil penalties.

Subpart B—Disclosure and Verification of Social Security Numbers and Employer Identification Numbers; Procedures for Obtaining Income Information**§ 5.210 Purpose, applicability, and Federal preemption.**

(a) *Purpose.* This subpart B requires applicants for and participants in covered HUD programs to disclose, and submit documentation to verify, their Social Security Numbers (SSNs). This subpart B also enables HUD and HAS to obtain income information about applicants and participants in the covered programs through computer matches with State Wage Information Collection Agencies (SWICAs) and Federal agencies, in order to verify an applicant's or participant's eligibility for or level of assistance. The purpose of this subpart B is to enable HUD to decrease the incidence of fraud, waste, and abuse in the covered programs.

(b) *Applicability.* (1) This subpart B applies to mortgage and loan insurance and coinsurance and housing assistance programs contained in chapter II, subchapter B, and chapters VIII and IX of this title.

(2) The information covered by consent forms described in this subpart involves income information from SWICAs, and wages, net earnings from

self-employment, payments of retirement income, and unearned income as referenced at 26 U.S.C. 6103. In addition, consent forms may authorize the collection of other information from applicants and participants to determine eligibility or level of benefits, as provided in parts 813 and 913 of this title.

(c) *Federal preemption.* This subpart B preempts any State law, including restrictions and penalties, that governs the collection and use of income information to the extent State law is inconsistent with this subpart.

§ 5.212 Compliance with the Privacy Act and other requirements.

(a) *Compliance with the Privacy Act.* The collection, maintenance, use, and dissemination of SSNs, EINs, any information derived from SSNs and Employer Identification Numbers (EINs), and income information under this subpart shall be conducted, to the extent applicable, in compliance with the Privacy Act (5 U.S.C. 552a) and all other provisions of Federal, State, and local law.

(b) *Privacy Act notice.* All assistance applicants shall be provided with a Privacy Act notice at the time of application. All participants shall be provided with a Privacy Act notice at each annual income recertification.

§ 5.214 Definitions.

In addition to the definitions in § 5.100, the following definitions apply to this subpart B:

Assistance applicant. Except as excluded pursuant to 42 U.S.C. 3543(b) and 3544(a)(2), this term means the following:

(1) For any program under 24 CFR parts 215, 221, 236, 290, 880, 882, 886, 887, 891: A family or individual that seeks rental assistance under the program.

(2) For any program under 24 CFR parts 904, 950, and 960: A prospective tenant or homebuyer seeking the benefit of the program.

(3) For any program under 24 CFR part 235: A homeowner or cooperative member seeking homeownership assistance (including where the individual seeks to assume an existing mortgage).

Computer match means the automated comparison of data bases containing records about individuals.

Computer matching agreement means the agreement that describes the responsibilities and obligations of the parties participating in a computer match.

Consent form means any consent form approved by HUD to be signed by

assistance applicants and participants for the purpose of obtaining income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and payments of retirement income), as referenced at 26 U.S.C. 6103(l)(7)(A); and return information for unearned income from the Internal Revenue Service, as referenced at 26 U.S.C. 6103(l)(7)(B). The consent forms expire after a certain time and may authorize the collection of other information from assistance applicants or participants to determine eligibility or level of benefits as provided in §§ 813.109, 913.109, and 950.315 of this title.

Employer Identification Number (EIN) means the nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation pursuant to sections 6011(b), or corresponding provisions of prior law, or 6109 of the Internal Revenue Code.

Entity applicant. (1) Except as excluded pursuant to 42 U.S.C. 3543(b), 3544(a)(2), and paragraph (2) of this definition, this term means a partnership, corporation, or any other association or entity, other than an individual owner applicant, that seeks to participate as a private owner in any of the following:

(i) The project-based assistance programs in 24 CFR parts 880, 882, 886, or 891;

(ii) The programs in 24 CFR parts 215, 221, or 236; or

(iii) The other mortgage and loan insurance programs in 24 CFR parts 201 through 267, except that the term "entity applicant" does not include a mortgagee or lender.

(2) The term does not include a public entity, such as a PHA, IHA, or State Housing Finance Agency.

Federal agency means a department of the executive branch of the Federal Government.

HA is the collective term for PHAs and IHAs.

Income information means information relating to an individual's income, including:

(1) All employment income information known to current or previous employers or other income sources that HUD or the processing entity determines is necessary for purposes of determining an assistance applicant's or participant's eligibility for, or level of assistance in, a covered program;

(2) All information about wages, as defined in the State's unemployment compensation law, including any Social

Security Number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, Employer Identification Number of an employer reporting wages under a State unemployment compensation law;

(3) With respect to unemployment compensation:

(i) Whether an individual is receiving, has received, or has applied for unemployment compensation;

(ii) The amount of unemployment compensation the individual is receiving or is entitled to receive; and

(iii) The period with respect to which the individual actually received such compensation;

(4) Unearned IRS income and self-employment, wages and retirement income as described in the Internal Revenue Code, 26 U.S.C. 6103(l)(7); and

(5) Wage, social security (Title II), and supplemental security income (Title XVI) data obtained from the Social Security Administration.

Individual owner applicant. Except as excluded pursuant to 42 U.S.C. 3543(b), 3544(a)(2), or paragraph (2) of this definition, this term means:

(1) An individual who seeks to participate as a private owner in any of:

(i) The project-based assistance programs in 24 CFR parts 880, 882, 886, 887, or 891; or

(ii) The programs in 24 CFR parts 215, 221, 235 (without homeownership assistance), or 236, including where the individual seeks to assume an existing mortgage; or

(2) An individual who:

(i) Either: (A) Applies for a mortgage or loan insured or coinsured under any of the programs referred to in paragraph (1)(iii) of the definition of "entity applicant" in this section; or

(B) Seeks to assume an existing mortgage or loan; and

(ii) Intends to hold the mortgaged property in his or her individual right.

IRS means the Internal Revenue Service.

Owner means the person or entity (or employee of an owner) that leases an assisted dwelling unit to an eligible family and includes, when applicable, a mortgagee.

Participant. Except as excluded pursuant to 42 U.S.C. 3543(b) and 3544(a)(2), this term has the following meaning:

(1) For 24 CFR parts 880, 882, 886, 887, and 891: A family receiving rental assistance under the program;

(2) For 24 CFR parts 904, 950, 960: A tenant or homebuyer under the program;

(3) For 24 CFR parts 215, 221, 236, and 290: A tenant or qualified tenant under any of the programs; and

(4) For 24 CFR part 235: A homeowner or a cooperative member receiving homeownership assistance.

Processing entity means the person or entity that, under any of the programs covered under this subpart B, is responsible for making eligibility and related determinations and any income reexamination.

Social Security Number (SSN) means the nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

SSA means the Social Security Administration.

State Wage Information Collection Agency (SWICA) means the State agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the State, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

Disclosure and Verification of Social Security Numbers and Employer Identification Numbers for Applicants and Participants in Certain HUD Programs

§ 5.216 Disclosure and verification of Social Security and Employer Identification Numbers.

(a) *Disclosure: assistance applicants.* Each assistance applicant must submit the following information to the processing entity when the assistant applicant's eligibility under the program involved is being determined:

(1)(i) The complete and accurate SSN assigned to the assistant applicant and to each member of the assistant applicant's household who is at least six years of age; and

(ii) The documentation referred to in paragraph (f)(1) of this section to verify each such SSN; or

(2) If the assistance applicant or any member of the assistance applicant's household who is at least six years of age has not been assigned an SSN, a certification executed by the individual involved that meets the requirements of paragraph (j) of this section.

(b) *Disclosure: individual owner applicants.* Each individual owner applicant must submit the following information to the processing entity when the individual owner applicant's eligibility under the program involved is being determined:

(1)(i) The complete and accurate SSNs assigned to the individual owner

applicant and to each member of the individual owner applicant's household who will be obligated to pay the debt evidenced by the mortgage or loan documents; and

(ii) The documentation referred to in paragraph (f)(1) of this section to verify the SSNs; or

(2) If any person referred to in paragraph (b)(1)(i) of this section has not been assigned an SSN, a certification executed by the individual involved that meets the requirements of paragraph (j) of this section.

(c) *Disclosure: certain officials of entity applicants.* As explained more fully in HUD administrative instructions, each officer, director, principal stockholder, or other official of an entity applicant must submit the following information to the processing entity when the entity applicant's eligibility under the program involved is being determined:

(1) The complete and accurate SSN assigned to each such individual; and

(2) The documentation referred to in paragraph (f)(1) of this section to verify each SSN.

(d) *Disclosure: participants.* (1) *Initial disclosure.* Each participant whose initial determination of eligibility under the program involved was begun before November 6, 1989, must submit the following information to the processing entity at the next regularly scheduled income reexamination for the program involved:

(i)(A) The complete and accurate SSN assigned to the participant and to each member of the participant's family who is at least six years of age; and

(B) The documentation referred to in paragraph (f)(1) of this section to verify each such SSN; or

(ii) If the participant or any member of the participant's household who is at least six years of age has not been assigned an SSN, a certification executed by the individual(s) involved that meets the requirements of paragraph (j) of this section.

(2) *Subsequent disclosure.* Once a participant has disclosed and verified every SSN, or submitted any certification that an SSN has not been assigned, as provided by paragraph (a) of this section (for an assistance applicant) or paragraph (d)(1) (for a preexisting participant) of this section, the following rules apply:

(i) If the participant's household adds a new member who is at least six years of age, the participant must submit to the processing entity, at the next interim or regularly scheduled income reexamination that includes the new members:

(A) The complete and accurate SSNs assigned to each new member and the documentation referred to in paragraph (f)(1) of this section to verify the SSNs for each new member; or

(B) If the new member has not been assigned an SSN, a certification executed by the individual involved that meets the requirements of paragraph (j) of this section.

(ii) If the participant or any member of the participant's household who is at least six years of age obtains a previously undisclosed SSN, or has been assigned a new SSN, the participant must submit the following to the processing entity at the next regularly scheduled income reexamination:

(A) The complete and accurate SSN assigned to the participant or household member involved; and

(B) The documentation referred to in paragraph (f)(1) of this section to verify the SSN of each such individual.

(iii) Additional SSN disclosure and verification requirements, including the nature of the disclosure and the verification required and the time and manner for making the disclosure and verification, may be specified in administrative instructions by:

(A) HUD; and

(B) In the case of the public housing program or the programs under parts 882 and 887 of this title, the HA.

(e) *Disclosure: entity applicants.* Each entity applicant must submit the following information to the processing entity when the entity applicant's eligibility under the program involved is being determined:

(1) Any complete and accurate EIN assigned to the entity applicant; and

(2) The documentation referred to in paragraph (f)(2) of this section to verify the EIN.

(f) *Required documentation.* (1) *Social Security Numbers.* The documentation necessary to verify the SSN of an individual who is required to disclose his or her SSN under paragraphs (a) through (d) of this section is a valid SSN card issued by the SSA, or such other evidence of the SSN as HUD and, where applicable, the HA may prescribe in administrative instructions.

(2) *Employer Identification Numbers.* The documentation necessary to verify any EIN of an entity applicant that is required to disclose its EIN under paragraph (e) of this section is the official, written communication from the IRS assigning the EIN to the entity applicant, or such other evidence of the EIN as HUD may prescribe in administrative instructions.

(g) *Special documentation rules for assistance applicants and participants.*

(1) *Certification of inability to meet documentation requirements.* If an individual who is required to disclose his or her SSN under paragraph (a) (assistance applicants) of this section or paragraph (d) (participants) of this section is able to disclose the SSN, but cannot meet the documentation requirements of paragraph (f)(1) of this section, the assistance applicant or participant must submit to the processing entity the individual's SSN and a certification executed by the individual that the SSN submitted has been assigned to the individual, but that acceptable documentation to verify the SSN cannot be provided.

(2) *Acceptance or certification by processing entity.* Except as provided by paragraph (h) of this section, the processing entity must accept the certification referred to in paragraph (g)(1) of this section and continue to process the assistant applicant's or participant's eligibility to participate in the program involved.

(3) *Effect on assistance applicants.* If the processing entity determines that the assistance applicant is otherwise eligible to participate in the program, the assistance applicant may not become a participant in the program, unless it submits to the processing entity the documentation required under paragraph (f)(1) of this section within the time period specified in paragraph (g)(5) of this section. During such period, the assistance applicant will retain the position that it occupied in the program at the time the determination of eligibility was made, including its place on any waiting list maintained for the program, if applicable.

(4) *Effect on participants.* If the processing entity determines that the participant otherwise continues to be eligible to participate in the program, participation will continue, provided that the participant submits to the processing entity the documentation required under paragraph (f)(1) of this section within the time period specified in paragraph (g)(5) of this section.

(5) *Time for submitting documentation.* The time period referred to in paragraphs (g)(4) and (5) of this section is 60 calendar days from the date on which the certification referred to in paragraph (g)(1) of this section is executed, except that the processing entity may, in its discretion, extend this period for up to an additional 60 days if the individual is at least 62 years of age and is unable to submit the required documentation within the initial 60-day period.

(h) *Rejection of documentation or certification.* The processing entity may

reject documentation referred to in paragraph (f) of this section, or a certification provided under paragraphs (a)(2), (b)(2), (d), or (g)(1) of this section, only for such reasons as HUD and the HA may prescribe in applicable administrative instructions.

(i) *Information on SSNs and EINs.* (1) Information regarding SSNs and SSN cards may be obtained by contacting the local SSA Office or consulting the SSA regulations at 20 CFR chapter III (see, particularly, part 422).

(2) Information regarding EINs may be obtained by contacting the local office of the IRS or consulting the appropriate regulations for the IRS.

(j) *Form and manner of certifications.* The certifications referred to in paragraphs (a)(2), (b)(2), (d), and (g)(1) of this section must be in the form and manner that HUD and the HA prescribe in applicable administrative instructions. If an individual who is required to execute a certification is less than 18 years of age, the certification must be executed by his or her parent or guardian or, in accordance with administrative instructions, by the individual or another person.

(Approved by the Office of Management and Budget under control number 2502-0204.)

§ 5.218 Penalties for failing to disclose and verify Social Security and Employer Identification Numbers.

(a) *Denial of eligibility: assistance applicants and individual owner applicants.* The processing entity must deny the eligibility of an assistance applicant or individual owner applicant in accordance with the provisions governing the program involved, if the assistance or individual owner applicant does not meet the applicable SSN disclosure, documentation and verification, and certification requirements specified in § 5.216.

(b) *Denial of eligibility: entity applicants.* The processing entity must deny the eligibility of an entity applicant in accordance with the provisions governing the program involved; if:

(1) The entity applicant does not meet the applicable EIN disclosure and verification requirements specified in § 5.216; or

(2) Any of the officials of the entity applicant referred to in § 5.216(c) does not meet the applicable SSN disclosure, and documentation and verification requirements specified in § 5.216.

(c) *Termination of assistance or tenancy: participants.* The processing entity must terminate the assistance or tenancy, or both, of a participant, in accordance with the provisions governing the program involved, if the

participant does not meet the applicable SSN disclosure, documentation and verification, and certification requirements specified in § 5.216.

(d) *Cross reference.* Individuals should consult the regulations and administrative instructions for the programs covered under this subpart B for further information on the use of SSNs and EINs in determinations regarding eligibility.

Procedures for Obtaining Income Information About Applicants and Participants

§ 5.230 Consent by assistance applicants and participants.

(a) *Required consent by assistance applicants and participants.* Each member of the family of an assistance applicant or participant who is at least 18 years of age, and each family head and spouse regardless of age, shall sign one or more consent forms.

(b) *Consent authorization.* (1) *To whom and when.* The assistance applicant shall submit the signed consent forms to the processing entity when eligibility under a covered program is being determined. A participant shall sign and submit consent forms at the next regularly scheduled income reexamination. Assistance applicants and participants shall be responsible for the signing and submitting of consent forms by each applicable family member.

(2) *Subsequent consent forms—special cases.* Participants are required to sign and submit consent forms at the next interim or regularly scheduled income reexamination under the following circumstances:

(i) When any person 18 years or older becomes a member of the family;

(ii) When a member of the family turns 18 years of age; and

(iii) As required by HUD or the HA in administrative instructions.

(c) *Consent form—contents.* The consent form required by this section shall contain, at a minimum, the following:

(1) A provision authorizing HUD and HAs to obtain from SWICAs any information or materials necessary to complete or verify the application for participation and to maintain continued assistance under a covered program; and

(2) A provision authorizing HUD, HAs, or the owner responsible for determining eligibility for or the level of assistance to verify with previous or current employers income information pertinent to the assistance applicant's or participant's eligibility for or level of assistance under a covered program;

(3) A provision authorizing HUD to request income return information from

the IRS and the SSA for the sole purpose of verifying income information pertinent to the assistance applicant's or participant's eligibility or level of benefits; and

(4) A statement that the authorization to release the information requested by the consent form expires 15 months after the date the consent form is signed.

§ 5.232 Penalties for failing to sign consent forms.

(a) *Denial or termination of benefits.* In accordance with the provisions governing the program involved, if the assistance applicant or participant, or any member of the assistance applicant's or participant's family, does not sign and submit the consent form as required in § 5.230, then:

(1) The processing entity shall deny assistance to and admission of an assistance applicant;

(2) Assistance to, and the tenancy of, a participant may be terminated.

(b) *Cross references.* Individuals should consult the regulations and administrative instructions for the programs covered under this subpart B for further information on the use of income information in determinations regarding eligibility.

§ 5.234 Requests for information from SWICAs and Federal agencies; restrictions on use.

(a) *Information available from SWICAs and Federal agencies—to whom and what.* Income information will generally be obtained through computer matching agreements between HUD and a SWICA or Federal agency, or between a HA and a SWICA, as described in paragraph (c) of this section. Certification that the applicable assistance applicants and participants have signed appropriate consent forms and have received the necessary Privacy Act notice is required, as follows:

(1) When HUD requests the computer match, the processing entity shall certify to HUD; and

(2) When the HA requests the computer match, the HA shall certify to the SWICA.

(b) *Restrictions on use of information.* The restrictions of 42 U.S.C. 3544(c)(2)(A) apply to the use by HUD or a HA of income information obtained from a SWICA. The restrictions of 42 U.S.C. 3544(c)(2)(A) and of 26 U.S.C. 6103(l)(7) apply to the use by HUD or a HA of income information obtained from the IRS or SSA.

(c) *Computer matching agreements.* Computer matching agreements shall specify the purpose and the legal authority for the match, and shall include a description of the records to

be matched, a statement regarding disposition of information generated through the match, a description of the administrative and technical safeguards to be used in protecting the information obtained through the match, a description of the use of records, the restrictions on duplication and redisclosure, a certification, and the amount that will be charged for processing a request.

(Approved by the Office of Management and Budget under control number 2508-0008.)

§ 5.236 Procedures for termination, denial, suspension, or reduction of assistance based on information obtained from a SWICA or Federal agency.

(a) *Termination, denial, suspension, or reduction of assistance.* The provisions of 42 U.S.C. 3544(c)(2)(B) and (C) shall govern the termination, denial, suspension, or reduction of benefits for an assistance applicant or participant based on income information obtained from a SWICA or a Federal agency. Procedures necessary to comply with these provisions are provided in paragraph (b) of this section.

(b) *Procedures for independent verification.* (1) Any determination or redetermination of family income made on the basis of information verified in accordance with paragraph (b) of this section shall be carried out in accordance with the requirements and procedures applicable to the individual covered program. Independent verification of information obtained from a SWICA or a Federal agency may be:

(i) By HUD; and

(ii) By a HA, when the benefit to be provided to the assistance applicant or participant is under a program in parts 880, 882, 886, 887, 891, 904, 950, or 960 of this title, including when the HA is the contract administrator for the owner.

(2) Upon receiving income information from a SWICA or a Federal agency, HUD or, when applicable, the HA shall compare the information with the information about a family's income that was:

(i) Provided by the assistance applicant or participant to the HA; or

(ii) Obtained by the owner (or mortgagee, as applicable) from the assistance applicant or participant or from his or her employer.

(3) When the income information reveals an employer or other income source that was not disclosed by the assistance applicant or participant, or when the income information differs substantially from the information received from the assistance applicant

or participant or from his or her employer:

(i) HUD or, as applicable or directed by HUD, the HA shall request the undisclosed employer or other income source to furnish any information necessary to establish an assistance applicant's or participant's eligibility for or level of assistance in a covered program. This information shall be furnished in writing, as directed to:

(A) HUD, with respect to programs under parts 215, 221, 235, 236, or 290 of this title;

(B) The HA, with respect to programs under parts 880, 882, 886, 887, 891, 904, 950, or 960 of this title for which the HA is responsible for determining eligibility or level of benefits; or

(C) The owner (or mortgagee, as applicable), with respect to programs under parts 215, 221, 235, 236, or 290 of this title, or when the owner is responsible under parts 880, 882, 886, 887, 891, 904, 950, or 960 of this title for determining eligibility or the level of assistance; or

(ii) HUD or the HA may verify the income information directly with an assistance applicant or participant. Such verification procedures shall not include any disclosure of income information prohibited under paragraph (b)(6) of this section.

(4) HUD and the HA shall not be required to pursue these verification procedures when the sums of money at issue are too small to raise an inference of fraud or justify the expense of independent verification and the procedures related to termination, denial, suspension, or reduction of assistance.

(5) Based on the income information received from a SWICA or Federal agency, HUD or the HA, as appropriate, may inform an owner (or mortgagee) that an assistance applicant's or participant's eligibility for or level of assistance is uncertain and needs to be verified. The owner (or mortgagee) shall then confirm the assistance applicant's or participant's income information by checking the accuracy of the information with the employer or other income source, or directly with the family.

(6) Nondisclosure of Income information. Neither HUD nor the HA may disclose income information obtained from a SWICA directly to an owner (unless a HA is the owner). Disclosure of income information obtained from the SSA or IRS is restricted under 26 U.S.C. § 6103(l)(7) and 42 U.S.C. 3544.

(c) *Opportunity to contest.* HUD, the HA, or the owner (or mortgagee, as applicable) shall promptly notify any

assistance applicant or participant in writing of any adverse findings made on the basis of the information verified in accordance with paragraph (b) of this section. The assistance applicant or participant may contest the findings in the same manner as applies to other information and findings relating to eligibility factors under the applicable program. Termination, denial, suspension, or reduction of assistance shall be carried out in accordance with requirements and procedures applicable to the individual covered program, and shall not occur until the expiration of any notice period provided by the statute or regulations governing the program.

§ 5.238 Criminal and civil penalties.

Persons who violate the provisions of 42 U.S.C. 3544 or 26 U.S.C. 6103(l)(7) with respect to the use and disclosure of income information may be subject to civil or criminal penalties under 42 U.S.C. 3544(c)(3), 26 U.S.C. 7213(a), or 18 U.S.C. 1905.

PART 200—INTRODUCTION

3. The authority citation for part 200 continues to read as follows:

Authority: 12 U.S.C. 1701–1715z–18; 42 U.S.C. 1436a and 3535(d).

4. Part 200 is amended by revising subparts T, U, and V to read as follows:

PART 200—INTRODUCTION

* * * * *

Subpart T—Social Security Numbers and Employer Identification Numbers; Assistance Applicants and Participants

§ 200.1001 Cross-reference.

The provisions in subpart B of part 5 of this title apply to Social Security Numbers and Employer Identification Numbers for assistance applicants and participants.

Subpart U—Social Security Numbers and Employer Identification Numbers; Applicants in Unassisted Programs

§ 200.1101 Cross-reference.

The provisions in subpart B of part 5 of this title apply to Social Security Numbers and Employer Identification Numbers for applicants in unassisted programs.

Subpart V—Income Information; Assistance Applicants and Participants

§ 200.1201 Cross-reference.

The provisions in subpart B of part 5 of this title apply to income information

for assistance applicants and participants.

PART 247—EVICTIONS FROM CERTAIN SUBSIDIZED AND HUD-OWNED PROJECTS

5. The authority citation for part 247 continues to read as follows:

Authority: 12 U.S.C. 1701q, 1701s, 1715b, 1715l, 1715z–1; 42 U.S.C. 1437a, 1437c, 1437f, 3535(d).

6. Section 247.3 is amended by revising paragraph (c)(3), to read as follows:

§ 247.3 Entitlement of tenants to occupancy.

* * * * *

(c) * * *

(3) If the tenant:

(i) Fails to supply on time all required information on the income and composition, or eligibility factors, of the tenant household, as provided in part 200, subpart G, of this chapter and part 5, subpart B, of this title; or

(ii) Knowingly provides incomplete or inaccurate information as required under these provisions; and

* * * * *

PART 572—HOPE FOR HOMEOWNERSHIP OF SINGLE FAMILY HOMES PROGRAM (HOPE 3)

7. The authority citation for part 572 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 12891.

Subpart B—Homeownership Program Requirements—Implementation Grants

§ 572.110 [Amended]

8. In § 572.110, paragraphs (d) (1) and (2) are amended by removing the references to “24 CFR part 750” and “24 CFR part 760”, and by adding in their places, “part 5, subpart B, of this title”, respectively.

PART 750—[REMOVED]

8a. Part 750 is removed.

PART 760—[REMOVED]

8b. Part 760 is removed.

PART 882—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING

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

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

Subpart A—Applicability, Scope and Basic Policies

§ 882.118 [Amended]

10. In § 882.118, paragraph (a)(1) is amended by removing the references “24 CFR part 750” and “24 CFR part 760”, and by adding in their places, “part 5, subpart B, of this title”, respectively.

Subpart B—Project Development and Operation

§ 882.212 [Amended]

11. Section 882.212 is amended:
 a. In paragraph (a) by removing the parenthetical reference “(see 24 CFR parts 750, 760, and 813)”, and by adding in its place the parenthetical reference “(see parts 5, subpart B, and 813 of this title)”;
 b. In paragraph (b) by removing the references “24 CFR 750.10(d)(2)(i)” and “24 CFR part 760”, and by adding in their places the reference “part 5, subpart B, of this title”; and
 c. In paragraph (c) by removing the references “24 CFR part 750” and “24 CFR part 760”, and by adding in their places the reference “part 5, subpart B, of this title”, respectively.

Subpart E—Special Procedures for Moderate Rehabilitation—Program Development and Operation

§ 882.515 [Amended]

12. Section 882.515 is amended:
 a. In paragraph (a) by removing the reference “24 CFR part 760”, and by adding in its place the reference “part 5, subpart B, of this title”;
 b. In paragraph (b) by removing the references “24 CFR 750.10(d)(2)(i)” and “24 CFR part 760”, and by adding in their places the reference “part 5, subpart B, of this title”, respectively; and
 c. In paragraph (c) by removing the references “24 CFR part 750” and “24 CFR part 760”, and by adding in their places the reference “part 5, subpart B, of this title”, respectively.

PART 886—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM— SPECIAL ALLOCATIONS

13. The authority citation for part 886 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), and 13611–13619.

Subpart A—Additional Assistance Program for Projects With HUD-Insured and HUD-Held Mortgages

§ 886.105 [Amended]

14. Section 886.105 is amended in the undesignated paragraph following

paragraph (f) by removing the reference "24 CFR part 750", and by adding in its place the reference "part 5, subpart B, of this title".

§ 886.119 [Amended]

15. In § 886.119, paragraphs (a) (3) and (7) are amended by removing the references "24 CFR part 750" and "24 CFR part 760", and by adding in their places the reference "part 5, subpart B, of this title", respectively.

§ 886.124 [Amended]

16. Section 886.124 is amended:
 a. In paragraph (a) by removing the reference "24 CFR part 760", and by adding in its place the reference "part 5, subpart B, of this title";
 b. In paragraph (b) by removing the references "24 CFR 750.10(d)(2)(i)" and "24 CFR part 760", and by adding in their places the reference "part 5, subpart B, of this title", respectively; and
 c. In paragraph (c) by removing the references "24 CFR part 750" and "24 CFR part 760", and by adding in their places the reference "part 5, subpart B, of this title", respectively.

Subpart C—Section 8 Housing Assistance Program for the Disposition of HUD-Owned Projects

§ 886.305 [Amended]

17. Section 886.305 is amended by removing the reference "24 CFR part 750", and by adding in its place the reference "part 5, subpart B, of this title".

§ 886.318 [Amended]

18. In § 886.318, paragraphs (a) (3) and (6) are amended by removing the references "24 CFR part 750" and "24 CFR part 760", and by adding in their places the reference "part 5, subpart B, of this title", respectively.

§ 886.324 [Amended]

19. Section 886.324 is amended:
 a. In paragraphs (a) and (c) by removing the references "24 CFR part 750" and "24 CFR part 760", and by adding in their places the reference "part 5, subpart B, of this title", respectively; and
 b. In paragraph (b) by removing the references "24 CFR 750.10(d)(2)(i)" and "24 CFR part 760", and by adding in their places the reference "part 5, subpart B, of this title", respectively.

PART 887—HOUSING VOUCHERS

20. The authority citation for part 887 continues to read as follows:
 Authority: 42 U.S.C. 1437f(o) and 3535(d).

Subpart H—Payment Standard and Housing Assistance Payment

§ 887.355 [Amended]

21. Section 887.355(a) is amended by removing the references "24 CFR part 750" and "24 CFR part 760", and by adding in their places the reference "part 5, subpart B, of this title", respectively.

PART 913—DEFINITION OF INCOME, INCOME LIMITS, RENT AND REEXAMINATION OF FAMILY INCOME FOR THE PUBLIC HOUSING PROGRAM

22. The authority citation for part 913 continues to read as follows:
 Authority: 42 U.S.C. 1437a, 1437d, 1437n and 3535(d).

§ 913.109 [Amended]

23. In § 913.109, paragraphs (a) and (b) are amended by removing the references "24 CFR part 750" and "24 CFR part 760", and by adding in their places the reference "part 5, subpart B, of this title", respectively.

PART 950—INDIAN HOUSING PROGRAMS

24. The authority citation for part 950 is revised to read as follows:
 Authority: 25 U.S.C. 450e(b); 42 U.S.C. 1437aa–1437ee, and 3535(d).

Subpart D—Operation

§ 950.301 [Amended]

25. In § 950.301, paragraphs (a)(3)(v) and (vi) are amended by removing the references "24 CFR part 750" and "24 CFR part 760", and by adding in their places the reference "part 5, subpart B, of this title", respectively.

§ 950.315 [Amended]

26. In § 950.315, paragraph (b) is amended by removing the references "24 CFR part 760" and "24 CFR part 750", and by adding the reference "part 5, subpart B, of this title", respectively.

Subpart E—Mutual Help Homeownership Opportunity Program

§ 950.416 [Amended]

27. In § 950.416, paragraph (d) is amended by removing the reference "24 CFR part 750", and by adding in its place the reference "part 5, subpart B, of this title".

PART 960—ADMISSION TO, AND OCCUPANCY OF, PUBLIC HOUSING

28. The authority citation for part 960 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437d, 1437n, and 3535(d).

Subpart B—Admission, Rent and Reexamination

§ 960.209 [Amended]

29. Section 960.209 is amended:
 a. In paragraph (a) by removing the references "24 CFR part 750" and "24 CFR part 760", and by adding in its place the reference "part 5, subpart B, of this title"; and
 b. In paragraph (b) by removing the references "24 CFR 750.10(d)(2)(i)" and "24 CFR part 760", and by adding in their places the reference "part 5, subpart B, of this title", respectively.

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

30. The authority citation for part 982 is revised to read as follows:
 Authority: 42 U.S.C. 1437a, 1437c, 1437f, and 3535(d).

Subpart L—Family Obligations; Denial and Termination of Assistance

§ 982.551 [Amended]

31. Section 982.551(b)(3) is amended by removing the references "24 CFR part 750" and "24 CFR part 760", and by adding in their places the reference "part 5, subpart B, of this title", respectively.

PART 983—SECTION 8 PROJECT-BASED CERTIFICATE PROGRAM

32. The authority citation for part 983 continues to read as follows:
 Authority: 42 U.S.C. 1437f and 3535(d).

Subpart E—Management

§ 983.205 [Amended]

33. Section 983.205(b)(3) is amended by removing the references "24 CFR part 750" and "24 CFR part 760", and by adding in their places the reference "part 5, subpart B, of this title", respectively.

Dated: March 6, 1996.

Henry G. Cisneros,
 Secretary.

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