

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4459-N-09]

Tenant-Based Section 8 Program: Procedures for Determining Baseline Unit Allocations, Verifying Unit Allocations, Accessing, Using, Restoration of and Recapture of Program Reserves and Transfers of Baseline Unit Allocations; Amendment

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: On October 21, 1999, HUD published its final rule specifying the method HUD will use in allocating housing assistance available to renew expiring contracts with public housing agencies (PHAs) for Section 8 tenant-based housing assistance. As required by statute, the final rule was developed using negotiated rulemaking procedures. On April 19, 2000, HUD published a **Federal Register** notice, also developed during the negotiated rulemaking process, which provides guidance on several topics relating to the October 21, 1999 final rule, including the procedures for verifying unit allocations; the accessing, using, restoration of and recapture of program reserves in the Annual Contributions Contract (ACC) Reserve Account; and the transfer of baseline unit allocations. This notice amends the procedures described in the April 19, 2000 notice regarding the annual year-end assessment of a PHA's leasing rate and use of budget authority to determine whether HUD should transfer unexpended budget authority to other PHAs.

FOR FURTHER INFORMATION CONTACT: Robert Dalzell, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4204, Washington, DC 20410; telephone (202) 708-1380. (This is not a toll-free number.) Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:**I. Background**

On October 21, 1999 (64 FR 56882), HUD published its final rule specifying the method HUD will use in allocating housing assistance available to renew expiring contracts with public housing agencies (PHAs) for Section 8 tenant-based housing assistance. As required by statute, the final rule was developed

using negotiated rulemaking procedures. On April 19, 2000 (65 FR 21088), HUD published a **Federal Register** notice, also developed during the negotiated rulemaking process. The April 19, 2000 notice provides guidance on several topics relating to the October 21, 1999 final rule, including the procedures for verifying unit allocations; the accessing, using, restoration of and recapture of program reserves in the Annual Contributions Contract (ACC) Reserve Account; and the transfer of baseline unit allocations.

The voucher utilization standard established by the April 19, 2000 notice provides that PHAs should assist a number of families equalling the number of units under ACC. The April 19, 2000 notice provides that annually, at the time of processing the PHA's year-end statement, HUD will assess each PHA's leasing rate and use of budget authority. Under the April 19, 2000 notice, the assessment excludes units for litigation and for on-schedule public housing relocation and replacement. The assessment also excludes units awarded to a PHA for which the ACC effective date is less than 8 months prior to the end of the PHA's fiscal year.

II. This Amendment

This notice amends the procedures described in the April 19, 2000 notice regarding the annual year end assessment of a PHA's leasing rate and use of budget authority to determine whether HUD should transfer unexpended budget authority to other PHAs. HUD has determined that the revision is necessary for purposes of administrative ease. So that HUD will not have to individually consider a PHA's progress in implementing its public housing demolition and disposition schedule when measuring voucher utilization, HUD has determined to keep the number of relocation and replacement vouchers in the number of units under ACC when determining the leasing rate. This means a PHA is expected to use those vouchers during the ACC term in the PHA fiscal year. If a PHA has not used vouchers obligated for public housing relocation and replacement because, under demolition or disposition plans, the vouchers are not needed until a future date, the PHA should ask its HUD financial analyst to revise the ACC effective date for those vouchers to an appropriate date in the future. Alternatively, the PHA may be able to use the relocation/replacement vouchers on an interim basis, in accordance with HUD procedures for interim use, provided the PHA can ensure that turnover vouchers will be available

when needed for the required relocation and replacement. It is the PHA's responsibility to either use the relocation/replacement vouchers or to request a change in the ACC effective date for those vouchers.

Under the April 19, 2000 notice, the year end assessment of the leasing rate excludes units awarded to a PHA for which the ACC effective date is less than 8 months prior to the end of the PHA's fiscal year. This amendment changes that provision to exclude units awarded to a PHA for which the ACC effective date is during the last PHA fiscal year. This change makes the assessment simpler, easier to understand and easier to program in a computer system.

III. Conforming Amendment to SEMAP Regulations

Elsewhere in today's **Federal Register**, HUD is publishing an amendment to its Section 8 Management Assessment Program (SEMAP) regulations at 24 CFR part 985. The amendment revises the SEMAP lease-up indicator to conform to the policy established in the October 21, 1999 final rule on renewal of expiring ACCs and in the April 19, 2000 notice on unit allocations, and ensures a single consistent standard for lease-up of voucher assistance.

Accordingly, in the notice entitled "Tenant-Based Section 8 Program: Procedures for Determining Baseline Unit Allocations, Accessing, Using, Restoration of and Recapture of Program Reserves and Transfers of Baseline Unit Allocations," 00-9733, beginning at 65 FR 21088, in the issue of Wednesday, April 19, 2000, the following amendment is made:

1. On page 21091, beginning in the second column, section VI.B. is revised to read as follows:

IV. Reduction of Adjusted Baseline Number of Units and Budget Authority

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B. In performing the assessment, HUD will exclude units (and their associated budget authority) awarded to the PHA for litigation purposes and for any funding increments whose effective date is during the fiscal year for which HUD is processing the year end statement.

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Dated: August 28, 2001.

Mel Martinez,

Secretary.

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