

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5061-N-01]

Disaster Voucher Program; Notice of Statutory and Regulatory Waivers for Public Housing Agencies Assisting With Recovery and Relief in Hurricanes Katrina and Rita Disaster Areas

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

ACTION: Notice.

SUMMARY: This notice advises the public of the implementation of certain statutory and regulatory waivers pursuant to the Department of Defense Appropriations Act, 2006, enacted into law on December 30, 2005. This act provides \$390 million for rental voucher assistance under section 8(o) of the United States Housing Act of 1937 to families that, prior to Hurricanes Katrina or Rita, were receiving housing assistance under certain HUD housing programs or were homeless or in emergency shelters in the declared disaster areas. The \$390 million rental voucher assistance program is referred to as the Disaster Voucher Program (DVP).

More detailed information about DVP and the operating requirements that govern its administration by public housing agencies (PHAs) are contained in PIH Notice 2006-12, which can be accessed from the HUD Web site at <http://www.hud.gov/pih>. The operating requirements explain in full detail the design features of DVP. The operating requirements also address the DVP funding process and administrative fees; PHA administrative responsibilities; and recordkeeping requirements. Any supplemental guidance for the DVP will be posted on HUD's Web site in order to ensure the effective administration and implementation of the program and its goals.

DATES: Effective Date: DVP became effective on January 27, 2006.

FOR FURTHER INFORMATION CONTACT: David Vargas, Director, Office of Voucher Programs, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4226, Washington, DC 20410; telephone (202) 708-2815 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:

I. Background Information

In late August 2005, Hurricane Katrina struck the Gulf Coast area of the United States causing unprecedented and catastrophic damage to property, significant loss of life, and the displacement of tens of thousands of individuals from their homes and communities. In September 2005, Hurricane Rita closely followed Hurricane Katrina and once again hit the Gulf Coast area of the United States, adding to the damage to property and displacement of individuals and families from their homes and communities.

Recognizing that moving displaced families out of temporary shelters into more permanent housing is a key element in helping families return to some degree of normalcy, the Federal Emergency Management Agency (FEMA), through a Mission Assignment, tasked HUD to assume a major role in the initial relief effort through the administration of the Katrina Disaster Housing Assistance Program (KDHAP). Under the KDHAP, HUD provided rent subsidy assistance, including security deposit assistance, utility deposit assistance, and housing search assistance, through local Public Housing Agencies (PHAs) currently administering the Housing Choice Voucher program to both HUD assisted families displaced from their homes by Hurricane Katrina and pre-disaster homeless families.

The Department of Defense Appropriations Act, 2006, (Public Law 109-148, enacted December 30, 2005) (DoD Appropriations Act) appropriated \$390 million to HUD for rental voucher assistance under section 8(o) of the United States Housing Act of 1937 (the 1937 Act) to families that, prior to Hurricanes Katrina or Rita, were receiving housing assistance under certain HUD housing programs or were homeless or in emergency shelters in the declared disaster areas. The funding is rental voucher assistance designed to help families displaced by the disaster on a temporary basis, while repairs or rebuilding is completed on their former housing. The DVP replaces the KDHAP. Families that participated in KDHAP who were eligible for the DVP had their KDHAP assistance converted to DVP assistance.

In addition to appropriating funding, the DoD Appropriations Act authorized statutory waivers for the DVP. In administering DVP assistance, the Secretary of Housing and Urban Development is authorized to waive requirements for income eligibility and tenant contribution for families

receiving DVP assistance for up to 18 months. The 18-months timeframe shall commence from the date that a family initially receives assistance under the DVP.

II. Waiver Authority

To further assist families in sustaining and obtaining housing during the recovery efforts, the DoD Appropriations Act provides the Secretary of Housing and Urban Development with the discretion to waive statutory requirements for income eligibility and tenant contribution under section 8 of the 1937 Act with respect to administration of the DVP. HUD implemented this waiver authority on January 27, 2006, which marked the commencement of DVP. The implementation of HUD's waiver authority provides eligible families additional time to recover from the economic impact of Hurricanes Katrina and Rita. In addition, the implementation of HUD's waiver authority assists in reducing impediments that may otherwise delay the speedy transition to and implementation of the DVP for families affected by Hurricanes Katrina and Rita.

Waivers of Statutory Provisions. For PHAs assisting Hurricanes Katrina and Rita disaster victims who are eligible for DVP, and consistent with the waiver authority provided by the DoD Appropriations Act, HUD has waived the following statutory provisions of the 1937 Act:

1. Section 8(o)(2): Amount of Monthly Assistance Payment
2. Section 8(o)(3): 40 Percent Limit
3. Section 8(o)(4): Eligible Families
4. Section 8(o)(5): Annual Review of Family Income

In addition, any duplicative or clearly interrelated statutory provisions are also waived.¹ For instance, section 3(a)(1) of the 1937 Act provides, in part, that only low-income families may be assisted under the 1937 Act, a requirement that is also contained, in far more detail, in section 8(o)(4) of the 1937 Act. Similarly, section 3(a)(3) of the 1937 Act establishes a minimum tenant rent requirement that is referenced in section 8(o)(2) of the 1937 Act.²

¹ A number of statutory definitions, e.g., the definition of adjusted income in section 3(b)(5) of the 1937 Act, do not apply to the DVP due to the waivers covering income eligibility and family contribution.

² In addition section 16(b) of the 1937 Act generally provides that of the families initially provided tenant-based assistance by a PHA under section 8 in a fiscal year, not less than 75 percent shall be extremely low income. Since income eligibility requirements do not apply to the DVP, any families assisted under this program are not

Under § 5.110 of HUD's regulations in title 24 of the Code of Federal Regulations (CFR), HUD's regulations in 24 CFR may be waived upon a determination of good cause, subject to statutory limitations. Waiver of several regulations in 24 CFR part 5, subpart F, were determined necessary to give effect to the waiver of statutory income eligibility and tenant contribution requirements described above.

In order to simplify the administration of the DVP, HUD made a finding of good cause to waive certain regulations in 24 CFR part 982 that govern the Housing Choice Voucher (HCV) program. Waiver of several of the HCV program regulations provide flexibility in administration of the DVP; assist in reducing impediments that may otherwise delay the speedy transition to and implementation of DVP for families affected by Hurricanes Katrina and Rita; and help provide eligible families with additional time to recover from the economic impact of the hurricanes. There are other regulatory provisions in 24 CFR part 982 that are either obsolete (e.g., 24 CFR 982.518, Regular Tenancy: How to Calculate the Housing Assistance Payment) or clearly inapplicable to DVP (e.g., 24 CFR 982.104, HUD Review of Application). Such provisions were therefore waived to provide clarity with respect to DVP administration.

Further, this notice advises that because DVP provides rental voucher assistance that is designed to help families displaced by the disaster on a temporary basis, DVP rental assistance may not be used for homeownership as provided in HUD's regulations in 24 CFR part 982, specifically in §§ 982.625 through 982.643, nor may DVP assistance be used for project-based voucher assistance as provided in 24 CFR part 983.

Therefore, consistent with the authority in 24 CFR 5.110, the following regulatory provisions were waived on January 27, 2006:

A. Housing Choice Voucher Program

1. 24 CFR 982.101: Allocation of Funding
2. 24 CFR 982.102: Allocation of Budget Authority for Renewal of Expiring

included in determining a PHA's compliance with the targeting requirement in section 16(b).

- Consolidated CACC Funding Increments
3. 24 CFR 982.103: PHA Application for Funding
4. 24 CFR 982.104: HUD Review of Application
5. 24 CFR 982.201: Eligibility and Targeting
6. 24 CFR 982.202: How Applicants are Selected: General Requirements
7. 24 CFR 982.203: Special Admission (Non-Waiting List): Assistance Targeted by HUD
8. 24 CFR 982.204: Waiting list: Administration of Waiting List
9. 24 CFR 982.205: Waiting List: Different Program
10. 24 CFR 982.206: Waiting List: Opening and Closing; Public Notice
11. 24 CFR 982.207: Waiting List: Local Preferences in Admission to Program
12. 24 CFR 982.317: Lease-Purchase Agreements
13. 24 CFR 982.352(a)(2): Ineligible Housing
14. 24 CFR 982.355: Portability: Administration by Receiving PHA
15. 24 CFR 982.401(d): Housing Quality Standards; Space and Security
16. 24 CFR 982.504 Voucher Tenancy: Payment Standard for Family in Restructured Subsidized Multifamily Project
17. 24 CFR 982.505 Voucher Tenancy: How to Calculate Housing Assistance Payment
18. 24 CFR 982.508: Maximum Family Share at Initial Occupancy
19. 24 CFR 982.515: Family Share: Family Responsibility
20. 24 CFR 982.516: Family Income and Composition: Regular and Interim Examinations
21. 24 CFR 982.518: Regular Tenancy: How to Calculate Housing Assistance Payment
22. 24 CFR 982.519: Regular Tenancy: Annual Adjustment of Rent to Owner
23. 24 CFR 982.520: Regular Tenancy: Special Adjustment of Rent to Owner
24. 24 CFR 982.619: Cooperative Housing
25. 24 CFR 982.622: Manufactured Home Space Rental: Rent to Owner
26. 24 CFR 982.623: Manufactured Home Space Rental: Housing Assistance Payment
27. 24 CFR 982.624: Manufactured Home Space Rental: Utility Allowance Schedule

B. Part 5, Subpart F: Section 8 and Public Housing and Other HUD Assisted Housing Serving Persons with Disabilities: Family Income and Family Payment; Occupancy Requirements for Section 8 Project-Based Assistance

1. 24 CFR 5.601: Purpose and Applicability
2. 24 CFR 5.603: Definitions
3. 24 CFR 5.609: Annual Income
4. 24 CFR 5.611: Adjusted Income
5. 24 CFR 5.613: Public Housing Program and Section 8: PHA Cooperation with Welfare Agency
6. 24 CFR 5.615: How Welfare Benefit Reduction affects Family Income
7. 24 CFR 5.617: Self-Sufficiency Incentives for Persons with Disabilities-Disallowance of Increase in Annual Income
8. 24 CFR 5.628: Total Tenant Payment
9. 24 CFR 5.630: Minimum Rent³

In addition, 24 CFR 5.512(d), Verification of Eligible Immigration Status: Secondary Verification, was waived for the limited purpose of expanding the time under which a secondary verification must be requested of Immigration and Customs Enforcement by the responsible entity when the primary verification (the automated verification system) is not conclusive of immigration status. Specifically, under the DVP, the time under which a secondary verification must be requested was expanded from 10 days of the date of the results of the primary verification to 90 days from such date.

All waivers pertaining to income eligibility and tenant contribution in the voucher program (e.g., 24 CFR 982.505, 982.508, 982.515, 982.516, 5.609 and 5.611) are applicable for an 18-month period for each family assisted under the DVP. All other waivers are effective for the duration of the DVP.

Dated: March 27, 2006.

Orlando J. Cabrera,

Assistant Secretary for Public and Indian Housing.

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³ Two regulatory provisions in 24 CFR part 5, subpart F (24 CFR 5.632 (Utility Reimbursement) and 24 CFR 5.634 (Tenant Rent)) explicitly provide that they do not apply to the voucher program and thus need not be waived.