



This document is scheduled to be published in the Federal Register on 08/14/2013 and available online at <http://federalregister.gov/a/2013-19769>, and on FDSys.gov

(BILLING CODE 3410-XV-U)

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3560

RIN 0575-AC96

Rural Development Voucher Program

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Housing Service, an agency within the Rural Development mission area, is adding new regulations to implement its Rural Development Voucher Program (RDVP). Section 542 of the Housing Act of 1949, as amended, authorizes RDVP. Since 2006, RD has conducted a demonstration voucher program which was funded and authorized by Congress to protect eligible multi-family housing (MFH) tenants in properties financed through Rural Development's Section 515 Rural Rental Housing program who may be subject to economic hardship through prepayment or foreclosure of the Rural Development mortgage. This demonstration program has been operating by utilizing a Notice of Funding Availability (NOFA) published annually in the Federal Register. Rural Development now proposes to establish a permanent regulation for this program.

DATES: Written comments must be received on or before [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER] to be assured for consideration.

The comment period for the information collection under the Paperwork Act of 1995 continues through [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments to this rule by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: Submit written comments via the U.S. Postal Service to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue, S.W., Washington, D.C. 20250-0742.
- Hand Delivery/Courier: Submit written comments via Federal Express Mail or other courier service requiring a street address to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, 300 7th Street, SW., 7th Floor, Washington, D.C. 20024.

All written comments will be available for public inspection during regular work hours at the 300 7th Street, S.W., 7TH Floor address listed above.

FOR FURTHER INFORMATION CONTACT: Stephanie White, U.S. Department of Agriculture, Rural Development, Multifamily Housing Portfolio Management Division, 1400

Independence Avenue, S.W., STOP 0782, Washington, D.C. 20250-0782; e-mail:
stephanie.white@wdc.usda.gov; telephone (202) 720-1615.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, Classification

This rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Authority

The RDVP is administered, subject to appropriations, by the U.S. Department of Agriculture as authorized under Section 542 of the Housing Act of 1949, as amended (42 U.S.C. 1490r).

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act 1995 (UMRA) of Public Law 104-4 establishes requirements for federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, RHS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with “federal mandates” that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of UMRA generally requires RHS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective, or least burdensome alternative that achieves the objectives of the rule. This

rule contains no federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, “Environmental Program.” RHS has determined that this action does not constitute a major federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321 et seq., an Environmental Impact Statement is not required.

Executive Order 12988, Civil Justice Reform

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with this rule: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given this rule; and (3) administrative proceedings in accordance with the 7 CFR part 11 must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time.

Executive Order 13132, Federalism

It has been determined, under Executive Order 13132, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in the rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various government levels.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). The undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect both small and large entities in the same manner. This rule proposes no significant changes in information collection or regulatory requirements that would have a negative impact on either small or large entities in an economic way.

Executive Order 12372, Intergovernmental Review of Federal Programs

This program is subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. RHS will conduct intergovernmental consultation in the manner delineated in RD Instruction 1940-J, "Intergovernmental Review of Rural Development Programs and Activities," available in any RHS office, on the Internet at http://www.rurdev.usda.gov/rd_instructions.html, and in 7 CFR part 3015, subpart V.

Programs Affected

The Catalog of Federal Domestic Assistance (CFDA) number assigned to this program is 10.448, Rural Housing Service Multi-Family Housing Rural Housing Voucher Demonstration Program. The Catalog is available on the Internet and the General Services Administration's (GSA's) free CFDA Web site at <https://www.cfda.gov>. The CFDA Web site also contains a PDF file version of the Catalog that, when printed, has the same layout as the printed document that the Government Printing Office (GPO) provides. GPO prints and sells the CFDA to interested buyers. For information about purchasing the CFDA from GPO, call the Superintendent of Documents at (202) 512-1800 or toll free at (866) 512-1800, or access GPO's online bookstore at <http://bookstore.gpo.gov/>.

Paperwork Reduction Act of 1995

In accordance with the Paperwork Reduction Act of 1995, RHS is now seeking OMB approval of the reporting and recordkeeping requirements contained in this proposed rule. This information collection requirement will not become effective until approved by OMB. Upon approval of this information collection, RHS will publish a rule in the Federal Register.

Title: Rural Development Voucher Program

OMB Number: 0575-NEW

Type of Request: New collection.

Abstract: Information is completed by tenants, voucher holders, and landlords to obtain or renew a Rural Development Voucher. The forms and information provide the basis for determining the eligibility of the tenant for an Rural Development Voucher, the voucher holder and landlord's responsibilities, the eligibility of a rental unit, and the Rural Development Voucher amount information is also collected to assure compliance with the terms and conditions of the lease, Rural Development Housing Assistance Payments contract, and the voucher itself.

The collection of information will ensure that these federally funded grants are made to eligible applicants for authorized purposes. This information will enable the Agency to provide the necessary guidance and supervision to tenants, voucher holders, and landlords to assure Congress and the public that Rural Development vouchers will be used for the purposes for which they are intended.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .25 hours per response.

Respondents: Recipients of RHS Federal financial assistance.

Estimated Number of Respondents: 2415

Estimated Number of Responses: 2415

Estimated Total Annual Burden on Respondents: 3985 hours

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of functions Rural Development including whether the information will have practical utility; (b) the accuracy of Rural Development estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Jeanne Jacobs, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Avenue, S.W., Washington, D.C. 20250-0742. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

This Executive Order imposes requirements on Rural Development in the development of regulatory policies that have tribal implications or preempt tribal laws. RHS has determined that the rule does not have a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and the Indian tribes. Thus, the rule is not subject to the requirements of Executive Order 13175.

E-Government Act Compliance

Rural Development is committed to complying with the E-Government Act to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services and for other purposes.

Background

Section 542 of the Housing Act of 1949, as amended, authorizes the U.S. Department of Agriculture (USDA) to make vouchers available to assist very-low income families to reside in rental housing in rural areas. Since 2006, Congress has funded the RDVP as a demonstration program, through appropriations acts, to provide vouchers to any low-income tenants of properties financed through the Section 515 Rural Rental Housing Program who may be subject to an increase in their rents after prepayment of the Section 515 mortgage after September 30, 2005.

Prior appropriation language has established some different program requirements than set out Section 542 of the Housing Act of 1949 (42 U.S.C. 1490r) (Housing Act), such as the method of voucher value calculation and whether vouchers may only be used in rural areas. Under the demonstration program, Rural Development allowed the voucher to be used at the prepaid property or any other rental unit in the United States and its territories that passed Agency physical inspection standards and where the landlord accepted the voucher. Many Rural Development-financed multifamily housing properties that prepay the Rural Development mortgage or are subject to a foreclosure action are no longer located in rural areas. To limit use of vouchers only to rural areas would result in a hardship on tenants who wish to use their voucher and remain in such former Rural Development-financed properties. Consequently, the Agency has elected to issue this proposed rule with language that is based on what has been

provided consistently in recent appropriations language similar to its prior demonstration program, in anticipation of a continuation of such legislation.

Prior appropriations language further differs from the Housing Act with respect to eligibility (low income vs. very low income in the Housing Act); voucher value calculation method (Housing and Urban Development section 8 market rent approach vs. 30 percent of adjusted income approach); and circumstances when vouchers can be issued (mortgage prepayment and foreclosure vs. no such precedents to issuance). The Agency proposes to continue its demonstration program policies in anticipation of similar legislative authority. If such authority is not provided or is revised in future legislation, the agency will revise its voucher program policies accordingly.

Program Outline

After the receipt of prepayment or after the foreclosure action of a Section 515 mortgage, the Agency will notify tenants of the Section 515 property that they may be eligible to receive a voucher. Tenants are eligible if they are low income, and all members of a tenant's household must meet the citizenship requirements established herein. A tenant interested in receiving a voucher must return a signed document requesting the voucher and include requested materials pertaining to the tenant's household eligibility.

Upon verification of eligibility, the Agency will send the tenant a Rural Development Voucher packet containing all the information on the voucher process and documentation to provide a prospective landlord evidence of the voucher rent assistance from the Agency to a prospective landlord.

Section 542 of the Housing Act of 1949, as amended, limits the voucher amount to what exceeds 30 percent of the household's monthly adjusted income and limits the voucher to 10 percent of the household's gross monthly income. However, since 2006 the appropriations language has authorized Rural Development to calculate the amount of the voucher as the difference between the household's total rent prior to prepayment or foreclosure, and the market rent for a comparable unit. Rural Development anticipates this authority will continue. This proposed rule provides that so long as permitted by law, the voucher amount will be calculated according to the appropriations language.

Once the tenant has found a unit, the Agency will ensure that the unit meets Rural Development inspection standards as defined in this part, once verified, the Agency will execute a Rural Development Assistance Payments (RDAP) contract with the landlord. The landlord must also execute a one-year lease with the tenant that meets the requirements specified in this proposed rule. The term of the RDAP contract and the lease should be concurrent. The Agency will make electronic payments to the landlord following execution of the RDAP contract and lease. Subject to appropriations, voucher holders may choose to renew their vouchers in accordance with this proposed rule. If the tenant wishes to move, the Agency sends a new voucher packet so that the tenant may begin the search for a new unit. Vouchers may be terminated if either the tenant or the landlord does not fulfill their responsibilities under this rule and related agreements.

List of Subjects in 7 CFR 3560

Fair housing, Grant programs - Housing and Community Development, Low- and moderate-income housing, Public housing, Rent subsidies.

For the reasons set forth in the preamble, chapter XXXV, title 7, Code of Federal Regulations, part 3560, is proposed to be amended to read as follows:

PART 3560 – DIRECT MULTI-HOUSEHOLD HOUSING LOANS AND GRANTS

1. The authority citation for part 3560 continues to read as follows:

Authority: 42 U.S.C. 1480.

2. The part heading for part 3650 is revised as set forth above.

3. In § 3560.1, add paragraph (a)(4) to read as follows:

§ 3560.1 Applicability and purpose.

(a) ***

(4) *Section 542 Rural Housing Voucher Program.* A tenant-based voucher program designed to offer protection to eligible multi-family housing tenants in properties financed through the Section 515 Rural Rental Housing program who may be subject to economic hardship through prepayment of the RHS mortgage. The program is administered as the Rural Development Voucher Program.

4. In § 3560.11, add definitions for “Rural Development Assistance Payment Contract,” “Voucher,” “Voucher assistance,” “Voucher holder,” “Voucher household,” and “Voucher value” in alphabetical order to read as follows:

§ 3560.11 Definitions.

* * * * *

Rural Development Assistance Payment Contract (RDAP). An agreement between the landlord and the Agency providing for voucher assistance on behalf of a voucher holder in exchange for the landlord agreeing to comply with requirements outlined in this subpart.

* * * * *

Voucher. The Agency document that authorizes the voucher holder to use voucher assistance at an eligible unit in accordance with this subpart.

Voucher assistance. The Agency housing subsidy paid pursuant to a voucher to a landlord for a unit occupied by a voucher holder.

Voucher holder. A tenant in receipt of a current voucher.

Voucher household. The voucher holder and the persons living with the voucher holder, but not including a resident assistant.

Voucher value. The maximum voucher assistance calculated as described in this subpart available to the voucher holder.

* * * * *

5. Add subpart Q to read as follows:

Subpart Q – Rural Development Voucher Program

Sec.

3560.801 Overview.

3560.802 Purpose and definition.

3560.803 Voucher holder and voucher household eligibility.

3560.804 Voucher holder and voucher household responsibilities.

3560.805 [Reserved]

- 3560.806 Eligible units.
- 3560.807 Voucher, lease, and RDAP requirements.
- 3560.808 Landlord responsibilities.
- 3560.809 [Reserved]
- 3560.810 Voucher value and assistance.
- 3560.811 Using the voucher.
- 3560.812 Voucher term and renewal.
- 3560.813 [Reserved]
- 3560.814 Terminations and unauthorized assistance.
- 3560.815 Monitoring and enforcement.
- 3560.816 - 3560.849 [Reserved]
- 3560.850 OMB control number.

§ 3560.801 Overview.

This subpart contains the policies and the requirements for tenants and landlords who participate in the Rural Development Voucher Program (RDVP).

§ 3560.802 Purpose and definition.

- (a) The Rural Development Voucher Program provides voucher assistance to tenants of projects financed through a Rural Rental Housing loan that has either been prepaid by the owner or foreclosed upon by the Agency after September 30, 2005.
- (b) As used in this subpart, landlord means a legal person that rents a unit to a voucher holder.

§ 3560.803 Voucher holder and voucher household eligibility.

Participation in the RDVP is voluntary and a tenant must apply for participation in this program. Paragraphs (a) through (f) of this section list the criteria for participation in the program. If the Agency makes a determination that the tenant is ineligible for a voucher, the Agency will provide administrative appeal rights pursuant to 7 CFR part 11 and § 3560.9. To be eligible as a voucher holder, the tenant must:

- (a) Reside in a Rural Rental Housing property on the date of the prepayment of the Rural Rental Housing loan or upon foreclosure of the Rural Rental Housing loan by the Agency. The prepayment or foreclosure must have occurred after September 30, 2005;
- (b) Be low-income on the date of prepayment or foreclosure;
- (c) Must not be in breach of any unauthorized assistance repayment agreement with the Agency;

- (d) Along with members of the household, must not have been has been evicted from federally assisted housing in the last 5 years;
- (e) Along with all individuals residing in the household, be United States citizens, United States non-citizen nationals, or qualified aliens, pursuant to Section 214 of the Housing and Community Development Act of 1980 [42 U.S.C. 1436a]; and
- (f) Return all documentation required by the Agency, including any and all information that the Agency deems necessary to determine eligibility, within timeframes specified by the Agency. All responses must be true and complete to the tenant's knowledge.

§ 3560.804 Voucher holder and voucher household responsibilities.

Voucher holder responsibilities are the responsibilities of the voucher holder. Noncompliance by the voucher holder and/or the voucher household may lead to termination of the voucher holder from the Rural Development Voucher Program and other remedies as permitted by law.

- (a) The voucher holder must promptly notify the Agency of any violation of any of the responsibilities in this section.
- (b) For continued eligibility, the voucher holder must return all documentation within timeframes specified by the Agency, and the information must be true and complete to the voucher holder's knowledge. This includes any and all information that the Agency determines necessary in the administration of the program. Voucher holders

will be provided a list of the required documentation that must be submitted along with the timeframe to submit the documentation for continued eligibility.

- (c) The voucher holder is responsible for finding a unit with a landlord willing to accept a voucher.
- (d) The voucher holder must provide the Agency a copy of the lease signed by the landlord and the voucher holder.
- (e) The voucher holder must have legal capacity to enter into a lease.
- (f) The voucher holder and members of the voucher household may not commit any violations of the terms of lease that are substantial and repeated.
- (g) The voucher holder must occupy the unit as his or her only residence and may not be absent from the unit for more than 90 consecutive days. The voucher holder must promptly notify the Agency in writing if and when the voucher holder is away from the unit for over 90 days.
- (h) The voucher holder must not sublet the unit or assign the lease.
- (i) The voucher holder must promptly notify the Agency if and when the voucher holder makes a change in rental units that is voluntary (e.g. moving from one unit to another) or mandatory (e.g. eviction by the owner).
- (j) The voucher holder must supply information requested by the Agency to verify that the voucher holder is living in the unit or information related to the household's absence from the unit. The Agency will provide the voucher holder a list of information that is needed for the verification.
- (k) The voucher holder must allow the Agency, or its representative, to inspect the unit at reasonable times and after reasonable notice.

- (l) The voucher holder must promptly notify the Agency in writing of any change in voucher household composition.
- (m) The voucher holder must give the Agency a copy of any landlord eviction notice.
- (n) The voucher holder must pay utility bills and provide and maintain any appliances that the landlord is not required to provide for under the lease.
- (o) The voucher holder and each household member must not:
 - (1) Own or have any financial interest in the unit (other than in a cooperative, or be the owner of a manufactured home leasing a manufactured home space).
 - (2) Engage in abuse of drugs or alcohol, drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety, or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.
 - (3) Damage the unit or premises (other than damage from ordinary wear and tear) or permit any guest to damage the unit or premises.

§ 3560.805 [Reserved]

§ 3560.806 Eligible units.

Rural Development Voucher can be used at the prepaid property or for any other housing unit in the United States or its territories that meet the requirements specified in paragraphs (a) through (d) of this section.

- (a) The unit must be maintained using the standards set forth at § 3560.103. The Agency must determine that these standards are met prior to approving the use of the voucher. As necessary, the Agency may conduct re-inspections of units to ensure ongoing compliance with applicable standards.

(b) The landlord must indicate willingness to accept vouchers by executing a RDAP contract with the Agency as described in § 3560.807.

(c) Vouchers cannot be used in combination with any other Federal, State, or local housing subsidy of tenant rent payment. (e.g. the Agency's Rental Assistance (RA) program, HUD's Housing Choice Voucher or other tenant-based RA programs, or HUD's Public Housing program).

(d) The unit must be for rental housing, subject to a lease as described in § 3560.807.

Vouchers cannot be used to pay for services provided in group homes, nursing homes, or other housing arrangements that bundle services and housing.

§ 3560.807 Voucher, lease, and RDAP requirements.

A voucher, lease, and RDAP contract are used to document the responsibilities of the Agency, landlord, and voucher holder. The required contents of each document are described in this section.

(a) The Agency will provide to an eligible tenant that accepts the offer of a voucher an executed voucher, in a form specified by the Agency, describing the amount and requirements of the voucher.

(b) Voucher holders and landlords must execute and sign a written lease for the unit. The lease must include the following information:

- (1) Names of the landlord and tenants;
- (2) Unit address and apartment number, if applicable;
- (3) Term of the lease, including initial term of one year and provisions for renewal;
- (4) Amount of monthly rent; and

(5) The Agency prescribed Rural Development Tenancy Addendum, as described in paragraph (c)(3)(vii) of this section, that sets forth the tenancy requirements for the program.

(c) Landlords must execute the RDAP contract with the Agency before Voucher payments can be made.

(1) The term of the RDAP contract must be concurrent with the term of the lease. The RDAP contract cannot be effective prior to the date of the voucher holder's lease or the Rural Rental Housing loan prepayment or mortgage foreclosure.

(2) The RDAP contract must be executed within 60 days of the beginning of the lease term. If the RDAP contract is not executed within 60 days of the beginning of the lease term, the landlord and voucher holder will execute a new lease so that it will coincide with the RDAP contract. The Agency may make retroactive voucher payments to cover a period of no more than 60 days prior to execution of the RDAP, if a valid lease is in place. In no case will Rural Development make payment on a voucher prior to the obligation of funds by the Agency regardless lease status.

(3) The RDAP contract must include:

- (i) A description of the purpose of the contract, lease requirements, the term of the contract, and the amount of payment to the landlord;
- (ii) Certification of compliance with voucher program regulations and the applicable civil rights laws as set forth in § 3560.2(d);
- (iii) A description of what actions will cause a breach of the contract and associated remedies;
- (iv) Acknowledgement of access to premises and records for purposes described in § 3560.815;
- (v) The requirements for assignment of the RDAP contract;
- (vi) Other provisions as deemed necessary by the Agency; and
- (vii) A Rural Development Tenancy Addendum, that must be signed by both the landlord and voucher holder, which include provisions required by the Agency to delineate the legal terms of the lease, tenant and landlord rights and remedies related to the use of the unit, and any Agency programmatic requirements such as those necessary to assure equal access.

(4) If ownership of the unit is subject to a RDAP contract, the new landlord

must execute a new RDAP contract with the Agency.

(5) The RDAP contract may be assigned according to the terms of the

agreement.

§ 3560.808 Landlord responsibilities.

The landlord must promptly notify the Agency if he or she is in violation of any of the responsibilities in this subpart. Noncompliance by the landlord may lead to termination of the landlord from the Rural Development Voucher Program.

- (a) The landlord must comply with the RDAP contract, lease, and Rural Development Tenancy Addendum;
- (b) The landlord must carry out standard landlord functions during the lease term, such as enforcing the lease, performing maintenance, collecting the appropriate rent from the tenant, and charging tenants for any damage to the unit;
- (c) The landlord must maintain the unit in compliance with § 3560.103;
- (d) The landlord must comply with fair housing and equal opportunity requirements;
- (e) The landlord must pay for utilities, maintenance, and other services unless these are paid for by the tenant as specified in the lease; and
- (f) The landlord must promptly notify the Agency in writing of any of the following:
 - (1) A voucher holder's absence from the unit for a period exceeding 90 consecutive days;
 - (2) A change in the voucher holder's rental unit that is voluntary (e.g. moving from one unit to another) or mandatory (e.g. eviction by the landlord); or
 - (3) A change in the ownership status of the unit occupied by the voucher holder.
- (g) The Agency may choose to terminate the RDAP contract with the landlord if the unit does not meet Agency requirements or the Agency determines that the landlord has otherwise breached the RDAP contract. If the Agency chooses to terminate the RDAP contract due to a breach by the landlord, the voucher holder remains eligible to use his or her voucher elsewhere.

The RDAP contract will be terminated if:

- (1) The voucher holder moves from the unit;
- (2) The voucher holder relinquishes his or her voucher;

- (3) The Agency terminates program assistance for the voucher holder;
- (4) The landlord or voucher holder terminates the lease;
- (5) The landlord evicts the voucher holder; or
- (6) The landlord engages in or threatens abusive or violent behavior to Agency representatives.

§3560.809 [Reserved]

§3560.810 Voucher value and assistance.

The value of vouchers is the difference between the comparable market rent for unit in the former Rural Development-financed property and the tenant rent contribution on the date of prepayment or foreclosure.

- (a) The Agency may adjust the voucher value for inflation; otherwise the voucher value does not change over time.
- (b) The voucher value is not affected by the rent in the unit selected by the voucher holder, except as noted in paragraph (c) of this section.
- (c) The voucher assistance cannot exceed the rent amount specified in the tenant's lease. As a result, the voucher assistance paid to the landlord may be less than the full voucher value, if the rent amount specified in the tenant's lease is less than the full value of the voucher.

§3560.811 Using the voucher.

- (a) The voucher is issued to the household in the name of the primary tenant, as the voucher holder.

- (b) Should the voucher holder's household composition change, the voucher will remain with the voucher holder, provided that the voucher holder remains eligible to receive assistance.
- (c) The voucher is not transferable from the voucher holder to any other household member except in the case of the voucher holder's death or involuntary household separation such as the incarceration of the voucher holder, transfer of the voucher holder to an assisted living or nursing home facility, or divorce. Upon receiving documentation of such cases and Agency approval, the voucher may be transferred to another tenant on the voucher holder's lease.

§ 3560.812 Voucher term and renewal.

Vouchers are issued to a voucher holder to provide assistance for 12 monthly payments. In order to be eligible for renewal, a voucher holder must certify that the voucher household is low income and provide, within the timeframes specified by the Agency, any information requested by the Agency as it pertains to the voucher holder's continued eligibility to participate in the program.

§ 3560.813 [Reserved]

§ 3560.814 Terminations and unauthorized assistance.

- (a) The voucher holder may terminate tenancy after the lease term expires. If the voucher holder terminates the lease early, the RDAP contract terminates and voucher payments to the landlord stop. To remain eligible for a new voucher after terminating tenancy, the voucher holder must meet the following requirements:

- (1) If the voucher holder terminates tenancy during the lease term, the voucher holder must document landlord's consent to the termination of the lease.

(2) The voucher holder must notify the Agency immediately upon terminating tenancy.

(b) The landlord may terminate tenancy only in accordance with the provisions of the voucher holder's lease. The landlord may not terminate the tenancy or charge a penalty to the tenant or Agency if the Agency fails to pay the housing assistance payment or pays it late. Lease provisions under which the landlord may terminate tenancy include the following:

(1) Violations of the terms of lease that are substantial and repeated;

(2) Violations of Federal, State, or local law that directly relate to the occupancy or use of the unit or premises;

(3) Other causes specified in the lease.

(c) The Agency may terminate assistance to the voucher holder if he or she is subject to a court ordered eviction or if the voucher holder relinquishes the voucher and no longer participates in the program. The Agency may also terminate assistance under the following circumstances:

(1) If the voucher holder or voucher household violates any of the obligations under the program as defined in §3560.804;

(2) If the voucher holder or voucher household commits fraud, bribery, or other corrupt or criminal acts related to any Rural Development MFH program;

(3) If the voucher holder or voucher household owes funds to the Agency in connection with the Rural Development Voucher Program;

or

(4) If the voucher holder or voucher household has engaged in or threatened abusive or violent behavior to Agency representatives.

(d) The Agency may recapture any unauthorized assistance that was provided to a landlord or voucher holder. Unauthorized assistance may be the result of submission of inaccurate or false

information by the landlord or voucher holder or an error by the Agency personnel.

Unauthorized assistance will be processed in accordance with subpart O of this part. The Agency will provide notice to the landlord or voucher holder upon determining that unauthorized assistance was received. The notice will specify, in detail, the reason(s) that the assistance was determined to be unauthorized, the amount of unauthorized assistance to be repaid, and the process by which a review may be requested.

(e) In making termination decisions, the Agency has discretion to consider the seriousness of the issue, the level of involvement of household members, mitigating circumstances, such as the disability of a household member, and the effects of termination on non-involved household members. The Agency may permit a voucher holder to continue receiving assistance while imposing a condition that the household member or members who engaged in wrongful activity will not reside with the voucher holder.

§ 3560.815 Monitoring and enforcement.

The Agency will monitor voucher holders and landlords participating in the Rural Development Voucher Program. The Agency or its representatives, Inspector General of the U.S Department of Agriculture and Comptroller General of the United States have full and free access to all premises and to all accounts and other records that are relevant to the Rural Development Voucher Program. Upon request, voucher holders and landlords must assist in accessing any accounts or records. The Agency, at its discretion and in accordance with Agency regulations, may pursue civil monetary penalties from the landlord or voucher holder in an attempt to remedy violations of program regulations.

§§3560.816 – 3560.849 [Reserved]

§3560.850 OMB control number.

The information collection requirements contained in this regulation has been forwarded to the Office of Management and Budget (OMB) for approval. Public reporting burden for this collection of information is averaged at 15 minutes response, including time reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Tammye Treviño
Administrator
Rural Housing Service

August 7, 2013

Date

[FR Doc. 2013-19769 Filed 08/13/2013 at 8:45 am; Publication Date: 08/14/2013]