



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5, 891, 960, and 982

[Docket No. FR 5743-I-04]

RIN 2577-AJ36

**Streamlining Administrative Regulations for Multifamily Housing Programs and
Implementing Family Income Reviews under the Fixing America's Surface Transportation
(FAST) Act**

AGENCY: Office of the Deputy Secretary, HUD.

ACTION: Interim final rule.

SUMMARY: HUD published a final rule on March 8, 2016, containing changes to streamline regulatory requirements pertaining to certain elements of the Housing Choice Voucher (HCV), Public Housing (PH), and various multifamily housing (MFH) rental assistance programs. The goal of the final rule was to reduce the administrative burden on public housing agencies (PHAs) and MFH owners, including changes pertaining to annual income reviews in the HCV, PH, and Section 8 Project-Based Rental Assistance (PBRA) programs for families with sources of fixed income. On December 4, 2015, the President signed the Fixing America's Surface Transportation Act (FAST Act) into law. The law contained language that allowed PHAs and owners to conduct full income recertification for families with 90 percent or more of their income from fixed-income every 3 years instead of annually. This interim final rule amends the regulatory language to implement the FAST Act and to align the current regulatory flexibilities with those provided in the FAST Act. In addition, this interim final rule seeks to extend to certain MFH programs some of the streamlining changes that were proposed for and made only to the HCV and PH programs.

DATES: Effective date: [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Comment due date: [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Interested persons are invited to submit comments regarding this interim final rule. All communications must refer to the above docket number and title. There are two methods for submitting public comments.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel; U.S. Department of Housing and Urban Development; 451 7th Street, SW, Room 10276; Washington, DC 20410–0500.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at www.regulations.gov. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make comments immediately available to the public. Comments submitted electronically through the www.regulations.gov website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule.

No Facsimiled Comments. Facsimiled (faxed) comments are not acceptable.

Public Inspection of Public Comments. Copies of all comments submitted are available for inspection and downloading at www.regulations.gov. In addition, all properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m., weekdays, at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Relay Service at 800-877-8339 (this is a toll-free number).

FOR FURTHER INFORMATION CONTACT: For questions, please contact the following people (the phone numbers are not toll-free):

Multifamily Housing programs: Katherine Nzive, Director, Program Administration Office, Asset Management and Portfolio Oversight, 202-708-3000.

Housing Choice Voucher and Public Housing programs: Becky Primeaux, Director, Housing Voucher Management and Occupancy Division, 202-402-6050 or Monica Shepherd, Director, Public Housing Management and Occupancy, 202-402-4059.

Persons with hearing or speech impairments may access this number through TTY by calling the Federal Relay Service at 800-877-8339 (this is a toll-free number). The above-listed contacts may also be reached by mail at the following address: U.S. Department of Housing and Urban Development; 451 7th Street, SW; Washington, DC 20410.

SUPPLEMENTARY INFORMATION:

I. Background

On January 6, 2015, at 80 FR 423, HUD issued a proposed rule to implement several statutory changes made in the Department of Housing and Urban Development Appropriations

Act, 2014 and also make multiple administrative streamlining changes across several HUD programs. In that proposed rule, some of these additional streamlining changes applied only to the HCV and PH programs, not MFH programs. Given feedback on the rule, HUD is issuing this interim final rule to expand some of the flexibilities—namely, flexibilities related to utility reimbursements and asset declarations that were finalized for the HCV and PH programs in a March 8, 2016, final rule, at 81 FR 12354—to housing assisted under the following MFH programs, while seeking public feedback on that expansion:

(1) Section 8 Project-Based Rental Assistance (PBRA), including projects undergoing Mark-to Market debt restructuring under the Multifamily Assisted Housing Reform and Affordability Housing Act.

(2) Section 202 of the Housing Act of 1959 (both before and after section 202 was amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act).

(3) Section 811 of the Cranston-Gonzalez National Affordable Housing Act.

In addition, another of the provisions in the March 8, 2016, final rule, which applied to the HCV, PH, and above-listed MFH programs, allowed PHAs and multifamily owners to streamline income recertification procedures for families with income that comes from fixed-income sources. The new regulatory provision allowed PHAs and owners to only require third-party documentation for fixed-income sources every 3 years. In the intermediate years the PHA or owner could apply a previously determined or verified cost of living adjustment (COLA) or interest rate adjustment specific to each source of fixed income.

Prior to the issuance of the final rule, on December 4, 2015, the President signed the FAST Act (Public Law 114-94). While primarily a transportation law, section 78001 of the FAST Act also amended the United States Housing Act of 1937 to allow PHAs and owners in

the HCV, PH, and PBRA programs to eliminate annual income reviews in some years by applying a COLA determined by the Secretary to fixed-income sources for families with incomes that are made up of at least 90 percent fixed income. The PHA or owner is not required to verify non-fixed income amounts in years where no fixed-income review is required, but is still required to use third-party documentation for a full income recertification every 3 years.

This interim final rule not only implements the statutory provisions of the FAST Act, but it also modifies the earlier streamlining regulations so that the procedures for families meeting the 90 percent fixed-income threshold of the FAST Act are as similar as possible to those for families who receive some, but less than 90 percent, of their income from fixed-income sources.

II. Summary of this Interim Final Rule

Streamlined Certification of Fixed Income (§§ 5.233, 5.657, 960.257, and 982.516)

Under this interim final rule, during years 2 and 3 after a full income review, PHAs and owners in the HCV, PH, and PBRA programs may determine a family's fixed income by using a verified COLA or rate of interest on the individual sources of fixed income. In the case of a family with at least 90 percent of the family's unadjusted income from fixed income, a PHA or owner using streamlined income verification may, but is not required to, adjust the non-fixed income. For families with at least one source of fixed income, but for which less than 90 percent of the family's income is from fixed sources, PHAs and owners must verify and adjust non-fixed sources annually.

This interim final rule does not change the requirement that the PHA or owner must undertake a full recertification every 3 years. Nor does it alter the requirement, applicable under the current regulations, that families certify that all the information they submit for income verification, including the sources of income, is accurate.

Utility Reimbursements (§ 5.632)

As required by § 5.632 of the current PBRA regulations, where tenants pay for their utility usage, owners must reimburse tenants if the utility allowance exceeds the total tenant payment, but they do not specify how frequently such reimbursement must be made. Such silence may have led owners to the assumption that reimbursements must be monthly, causing them to process small monthly checks and expend postage to mail them to voucher holders, which may constitute an administrative and financial burden.

This interim final rule explicitly allows owners to make reimbursements of \$45 or less (per quarter) on a quarterly basis, in order to eliminate the burdensome process of processing and mailing monthly reimbursement checks. In the event a family leaves the program in advance of its next quarterly reimbursement, the owner would be required to reimburse the family for a prorated share of the applicable reimbursement. Owners exercising this option will be required to have a policy in place to assist tenants for whom the quarterly reimbursements will pose a financial hardship.

For the Section 202 and Section 811 programs, the regulations do not contain the requirements around utility reimbursements, in general, leaving such requirements in the assistance contracts. Therefore, HUD is not including regulatory text to implement these new flexibilities in this interim final rule, but rather would be open to amending the assistance contracts of any owners looking to take advantage of the flexibilities.

Family Declaration of Assets under \$5,000 (§ 5.659)

Families in the PBRA program are required to report all assets annually. The amount of interest earned on those assets is included as income used to calculate the tenant's rent obligation. Tenants with assets below \$5,000 typically generate minimal income from these

assets, which results in small changes, if any, to tenant rental payments. Owners spend significant time verifying such assets.

This rule amends the regulations so that, for a family that has net assets equal to or less than \$5,000, an owner, at recertification, may accept a family's declaration that it has net assets equal to or less than \$5,000, without annually taking additional steps to verify the accuracy of the declaration. Third-party verification of all family assets will be required every 3 years.

The regulations allow owners in the Section 202 and Section 811 programs to require tenants to provide the same certification of assets allowed in the HCV, PH, and PBRA programs.

Applicability to Housing Choice Voucher and Public Housing Programs

In the March 8, 2016, final rule, the provisions related to utility allowance reimbursements and asset certification applied to the HCV and PH programs only. HUD is currently expanding the same policies to the MFH programs through this interim final rule. However, comments on this interim final rule may lead us to reconsider those policies as they apply to the HCV and PH programs, in the interest of aligning policies across HUD programs.

III. Justification for Interim Rulemaking

In general, HUD publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking, 24 CFR part 10. Part 10, however, provides for exceptions from that general rule where the Department finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when the prior public procedure is "impracticable, unnecessary, or contrary to the public interest."

The Department finds that good cause exists to publish this interim rule for effect on the basis that the streamlining changes made to utility reimbursement and declaration of assets in this interim rule were included in HUD's January 6, 2015, proposed rule. Although these

provisions were not presented as streamlining changes for adoption in HUD's MFH programs, commenters responding to the solicitation of comment in the January 6, 2015, proposed rule requested HUD consideration of extending the applicability of these provisions to HUD's MFH programs.

The language implementing the FAST Act is implementing statutory language that provides an option for PHAs and owners. While the statute does not mandate that PHAs or owners use the streamlined reexamination, it does require HUD to give PHAs and owners the option. In addition, this interim final rule builds upon proposals that already underwent public comment, resulting in HUD's March 8, 2016, final rule. The specific use of the Social Security Administration's COLA was not issued for prior public comment, but the use of a single COLA, unless requested otherwise by the family, will provide PHAs and owners with additional streamlining benefits.

Although HUD is issuing this rule for effect, HUD has delayed the effective date for a period of 90 days, allowing participants in HUD's MFH programs and other interested parties to submit comment during the first 30-day period following publication of this interim rule. HUD will take any comments received into consideration and determine whether any further changes should be made before implementing the streamlining changes for the MFH programs.

IV. Specific Question for Comment

While HUD welcomes comments on all aspects of this interim final rule, HUD is seeking specific comment on the following question:

The language in this interim final rule proposes a policy on utility reimbursements and asset certification identical to that applying to the HCV and PH programs contained in the March 8, 2016, final rule. Comments on this interim final rule may lead us to reconsider those

policies as they apply to the HCV and PH programs, in the interest of aligning policies across HUD programs. Are there program-specific or unintended impacts in the HCV, PH, or MFH programs that should be considered in aligning these policies across programs? Would any difference cause a burden to entities administering these forms of assistance or to the tenants receiving the assistance?

V. Findings and Certifications

Regulatory Review—Executive Orders 12866 and 13563

Under Executive Order 12866 (Regulatory Planning and Review), a determination must be made whether a regulatory action is significant and therefore, subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the order. Executive Order 13563 (Improving Regulations and Regulatory Review) directs executive agencies to analyze regulations that are “outmoded, ineffective, insufficient, or excessively burdensome,” and to modify, streamline, expand, or repeal them in accordance with what has been learned. Executive Order 13563 also directs that, where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, agencies are to identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public. This rule was not determined to be a “significant regulatory action” as defined in section 3(f) of the Executive order.

As discussed, this interim final rule furthers HUD’s efforts to streamline administrative requirements for owners receiving subsidies under the HCV, PH, PBRA, Section 202 and Section 811 programs. Specifically, this interim rule gives PHAs and owners greater flexibilities in determining tenant families’ income and assets, and in issuing utility reimbursements. The rule provides PHAs and owners with the discretion to implement these regulations. Some may

choose the status quo; others will choose the streamlining alternative. By allowing voluntary implementation, HUD enables participants to choose their desired method of administration, which in many cases will presumably be the least-cost method. Aggregate savings are expected to be approximately \$31.2 million.

A. Benefits

The most significant savings come from reduced time devoted to administrative tasks related to certifying income. HUD expects that this streamlining interim rule will, in some cases, reduce the time required for income recertification, but it is difficult to know by how much, given the voluntary nature of the regulatory changes. To monetize the cost savings, we make assumptions concerning the proportion of PHAs and owners that will adopt the streamlining practices and what the time savings will be.

We assume that administrative costs for PH and PBRA, are similar to those for the HCV program. A HUD study of administrative costs in the HCV program found that, on average, 13.8 hours are required per voucher per year to run a high-performing program.¹ Half of the effort is allocated to ongoing occupancy, of which annual recertification is a major portion. Annual recertification includes preparing for and scheduling recertification, conducting interviews, verifying income and household composition, reviewing Enterprise Income Verification (EIV), and calculating total tenant payment and housing assistance payment. The average time spent is 232 minutes per voucher per year, with a 95 percent confidence interval of 206 to 257 minutes. The median is 225 minutes per voucher per year.

Based on this study, we estimate that the savings per household per year are 30 minutes (or approximately 12 percent of the total average reexamination time of 232 minutes). The savings are realized 2 of every 3 years and, so, on average, the per-household per-year savings

¹ Housing Choice Voucher Administrative Fee Study, Final Report, August 2015.

will be 20 minutes. If the opportunity cost of labor is \$60 per hour, then the average savings per affected household per year is \$20 (\$1 per minute x 20 minutes).

Current regulations in the HCV, PH, and PBRA programs apply streamlined income verification practices to all households with any income coming from fixed-income sources (60 percent of households in these programs).² This interim final rule changes the streamlined procedures for households with at least 90 percent of their income from fixed-income sources (53 percent of all households), or 2.5 million of 4.7 million households in the HCV, PH, and PBRA programs being eligible to benefit from this interim final rule.

For these 2.5 million households, a PHA or owner using streamlined income verification may, but is not required to, adjust the non-fixed income. It is reasonable to expect that streamlining will be applied to no more than half of those eligible (or that the savings will be noticeable for no more than half). Thus, we assume that assistance providers realize average administrative efficiencies of \$20 across 1.25 million households for aggregate savings of \$25 million. The aggregate efficiencies realized would be correspondingly higher (lower) if applied to more (fewer) households or if opportunity costs were higher (lower). Given anecdotal evidence from streamlining regulations, HUD expects the lower-end estimates to be more representative of the impact of the changes. If the impact ranges from 0 percent to 75 percent of the point estimate, we could expect administrative efficiencies of from \$0 to \$37.5 million.

In addition to the savings seen by streamlining annual certification of income, self-certification by households of assets is expected to reduce administrative burdens on PHAs and owners in the PBRA, Section 202, and Section 811 programs. This interim final rule applies to the 95 percent of PBRA-, Section 202-, and Section 811-assisted households that have assets

² This percentage was computed by HUD staff using HUD data. It is further assumed that the percentage is consistent and observable across all HUD programs.

with a cash value of less than \$5,000 but would only reduce costs for the 43 percent of households in these programs that have assets worth less than \$5,000 but more than zero. Of the 589,000 estimated eligible households (43 percent of 1.378 million), we assume that the streamlining savings will be realized for half of them. Applying the same logic as for income recertification and assuming that the average savings per household from streamlining is \$20, the aggregate savings will be \$5.9 million.

Further savings come from allowing quarterly utility reimbursements when such quarterly amounts are \$45 or less. The Tenant Rental Assistance Certification System (TRACS) database which contains data on multifamily owners, contracts, and tenants, reports that as of March 2017, 82,000 households assisted by the PBRA, Section 202 and Section 811 programs (of approximately 1.37 million) received utility reimbursements. Of these households, 30,000 received a monthly utility reimbursement less than \$45. If administrators choose quarterly reimbursements as opposed to monthly, then doing so would save some time and expense by eliminating the costs of sending eight letters every year to eligible households. Because it is a minor activity, information to estimate time spent on utility reimbursements is not available. We assume that processing and mailing costs \$3 per letter. Over 1 year, the savings amount to \$24 (8 months x \$3) per affected household. If only half choose the streamlining, then total savings will be \$0.36 million.

By allowing voluntary implementation, HUD enables participants to choose their desired method of administration, which in many cases will presumably be the least-cost method. It is difficult to estimate the savings with precision given that an unknown number of PHAs and owners may choose the status quo. Based on the aforementioned assumptions, aggregate savings

are expected to be approximately \$31.2million (\$24.9 million from income verification + \$0.6 million from utility reimbursement + \$5.9 million from asset verification).

B. Costs and Transfers

All of the regulatory changes included in this interim final rule are intended to provide additional options and flexibilities to PHAs and owners, not to mandate new actions. Therefore, HUD expects that PHAs and owners will not adopt any new procedures that add costs to their operations.

There may be a small transfer resulting from the change to the income streamlining regulations due to foregone tenant rent increases that would otherwise be owed by an unknown portion of the 2.5 million tenants affected by the new 90 percent fixed-income cutoff; there is no incentive to report an increase in income if regulations do not require doing so. Those households who realize a positive transfer from HUD is the subset who experience increases in non-fixed income during years 2 and 3 of the streamlined recertification cycle.

Of those households who receive 90 percent of income from fixed sources, the median annual income from non-fixed sources (labor earnings, asset income, temporary public assistance, and other sources of income) is \$0. The mean annual income from non-fixed sources across all such households is \$44. Under previous regulations, these households would contribute up to 30 percent of any increase in income to their rent payments. Thus, the transfer to households would be approximately 30 percent of any income gain in non-fixed income sources. If we assume that all non-fixed incomes increase by 1 percent for all households, then the average gain would be \$0.13 annually ($\$44 \times 1 \text{ percent growth} \times 30 \text{ percent towards tenant payment}$). This transfer occurs in only 2 out of every 3 years and so would be approximately \$0.09 on average. The aggregate transfer could be as high as \$225,000. As noted, most

households will not experience such an impact: only 13 percent of the affected population receive income from other than fixed-income sources. If we limit the effect to those who receive non-fixed income the measured impact is more pronounced: the mean non-fixed income is \$338. The individual impact is more pronounced (about 10 times larger) for such households. Less frequent recertification will lead to less timely data but, given the relative stability of fixed-income streams, would not result in a significant change in the payment of housing assistance.

There may also be a small cost to the tenant from temporarily withholding utility reimbursements for quarterly reimbursements. However, given the short time span and low amount, the maximum opportunity cost for a household would range from \$0.44 (at a 3 percent annual discount rate) to \$1.04 (at a 7 percent annual discount rate).³ The maximum aggregate cost across 30,000 households ranges from \$13,200 to \$31,200. However, the actual cost will be less because not all of the affected 30,000 households receive monthly utility reimbursements of \$15 or less.

Any associated risk of lost revenue to PHAs, owners, or HUD resulting from errors in imputed asset income is expected to be negligible. HUD's Quality Control Study (QC Study) reports that 34.5 percent of all households in HUD-assisted housing programs reported some errors in their income reporting. Of the group with income reporting errors, only 3 percent were found to have erroneously reported their annual asset income (by \$800 on average).

A potential administrative inefficiency is that the frequency and size of reporting error would increase if certifications are required every 3 years. Examination of quality control data from 2014 reveals that the net error in rent payments is more positive (indicating a tenant is

³ If the annual discount rate is 3 percent (7 percent), then the monthly discount rate is 0.25 percent (0.57 percent). The maximum burden on households will be when the utility reimbursement is \$15 per month (\$45 per quarter). For every quarter, the first month's reimbursement will be delayed by 2 months and the second month's by 1 month. Per quarter the burden will be \$0.11 (\$0.26 cents) at a 3 percent (7 percent) annual discount rate.

overpaying) and varies less when asset income is the largest source of the rent error. For those with assets less than \$5,000, the estimated annual net error is only \$8 in cases where asset income is the largest source of error (representing an overpayment). It is not clear what the impact of the rule would be on the level of the net error; however, we could expect greater variability with less accurate data. From the quality control data, we estimate that 1 percent of all households are those with assets less than \$5,000 for which errors originate from miscalculation of asset income (or 132,500 of 1.325 million households in multifamily housing). Even if the net error doubled because of the rule, the transfer to or from tenants would amount to no more than \$1 million per year 2 out of every 3 years. Finally, streamlining would allow staff to more rigorously control tenant information that is a greater source of error (such as earned income).

Information Collection Requirements

The information collection requirements contained in this interim final rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB control number 2502-0204. In accordance with the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This interim final rule will not impose any federal mandates on any state, local, or tribal governments or the private sector within the meaning of UMRA.

Environmental Review

This interim final rule involves external administrative requirements and procedures related to calculation of HUD rental assistance that do not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this interim final rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Impact on Small Entities

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This interim final rule reduces administrative burdens on PHAs and MFH owners in several aspects of administering assisted housing. All PHAs and MFH owners, regardless of size, will benefit from the burden reduction made by this interim final rule. These revisions impose no significant economic impact on a substantial number of small entities. Therefore, the undersigned certifies that this interim final rule will not have a significant impact on a substantial number of small entities.

Notwithstanding HUD's belief that this interim final rule will not have a significant effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this interim final rule that will meet HUD's objectives as described in this preamble.

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs

on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This interim final rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments nor preempt state law within the meaning of the Executive order.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers applicable to the program affected by this interim final rule are 14.157, 14.181, 14.195, 14.850, and 14.871.

List of Subjects

24 CFR Part 5

Administrative practice and procedure, Aged, Claims, Crime, Government contracts, Grant programs-housing and community development, 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.

24 CFR Part 891

Aged, Grant programs-housing and community development, Individuals with disabilities, Loan programs-housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 960

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

24 CFR Part 982

Grant programs-housing and community development, Grant programs-Indians, Indians, Public housing, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, HUD is amending 24 CFR parts 5, 891, 960, and 982 as follows:

PART 5—GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS

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

Authority: 12 U.S.C. 1701x; 42 U.S.C. 1437a, 1437c, 1437d, 1437f, 1437n, 3535(d); Sec. 327, Pub. L. 109-115, 119 Stat. 2936; Sec. 607, Pub. L. 109-162, 119 Stat. 3051 (42 U.S.C. 14043e et seq.); E.O. 13279, 67 FR 77141, 3 CFR, 2002 Comp., p. 258; and E.O. 13559, 75 FR 71319, 3 CFR, 2010 Comp., p. 273.

2. In § 5.632, add three sentences to the end of paragraph (b)(1) to read as follows:

§ 5.632 Utility reimbursements.

* * * * *

(b) * * *

(1) * * * The responsible entity has the option of making utility reimbursement payments not less than once per calendar-year quarter, for reimbursements totaling \$45 or less per quarter. In the event a family leaves the program in advance of its next quarterly reimbursement, the responsible entity must reimburse the family for a prorated share of the applicable reimbursement. PHAs and owners exercising this option must have a hardship policy in place for tenants.

* * * * *

3. In § 5.657, revise paragraph (d) to read as follows:

§ 5.657 Section 8 project-based assistance programs: Reexamination of family income and composition.

* * * * *

(d) Streamlined income determination—(1) General. An owner may elect to apply a streamlined income determination to families receiving fixed income as described in paragraph (d)(3) of this section.

(2) Definition of “fixed income”. For purposes of this section, “fixed income” means periodic payments at reasonably predictable levels from one or more of the following sources:

(i) Social Security, Supplemental Security Income, Supplemental Disability Insurance.

(ii) Federal, state, local, or private pension plans.

(iii) Annuities or other retirement benefit programs, insurance policies, disability or death benefits, or other similar types of periodic receipts.

(iv) Any other source of income subject to adjustment by a verifiable COLA or current rate of interest.

(3) Method of streamlined income determination. Owners using the streamlined income determination must adjust a family’s income according to the percentage of a family’s unadjusted income that is from fixed income.

(i) When 90 percent or more of a family’s unadjusted income consists of fixed income, owners using streamlined income determinations must apply a COLA or COLAs to the family’s fixed-income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed income and that their sources of fixed income have not changed from

the previous year. For non-fixed income, owners may choose, but are not required, to make appropriate adjustments pursuant to paragraph (b) of this section.

(ii) When less than 90 percent of a family's unadjusted income consists of fixed income, owners using streamlined income determinations must apply a COLA to each of the family's sources of fixed income. Owners must determine all other income pursuant to paragraph (b) of this section.

(4) COLA rate applied by owners. Owners using streamlined income determinations must adjust a family's fixed income using a COLA or current interest rate that applies to each specific source of fixed income and is available from a public source or through tenant-provided, third-party-generated documentation. If no public verification or tenant-provided documentation is available, then the owner must obtain third-party verification of the income amounts in order to calculate the change in income for the source.

(5) Triennial verification. For any income determined pursuant to a streamlined income determination, an owner must obtain third-party verification of all income amounts every 3 years.

4. Amend § 5.659 by revising paragraph (d) introductory text and adding paragraph (e) to read as follows:

§ 5.659 Family information and verification.

* * * * *

(d) Owner responsibility for verification. Except as allowed under paragraph (e), the owner must obtain and document in the family file third party verification of the following factors, or must document in the file why third party verification was not available:

* * * * *

(e) Verification of assets. For a family with net assets equal to or less than \$5,000, an owner may accept, for purposes of recertification of income, a family's declaration that it has net assets equal to or less than \$5,000 without taking additional steps to verify the accuracy of the declaration, except as required in paragraph (e)(2) of this section.

(1) The declaration must state the amount of income the family expects to receive from such assets; this amount must be included in the family's income.

(2) An owner must obtain third-party verification of all family assets every 3 years.

PART 891—SUPPORTIVE HOUSING FOR THE ELDERLY AND PERSONS WITH DISABILITIES

5. The authority citation for part 891 continues to read as follows:

Authority: 12 U.S.C. 1701q; 42 U.S.C. 1437f, 3535(d), and 8013.

6. In § 891.415, revise paragraph (a)(2) to read as follows:

§ 891.415 Obligations of the household or family.

* * * * *

(a) * * *

(2) Supply such certification, release of information, consent, completed forms or documentation as the Owner (or Borrower, as applicable) or HUD determines necessary, including information and documentation relating to the disclosure and verification of Social Security Numbers, as provided by 24 CFR part 5, subpart B; the signing and submission of consent forms for the obtaining of wage and claim information from State Wage Information

Collection Agencies, as provided by 24 CFR part 5, subpart B; and any certification of family net assets, as provided by 24 CFR 5.659(e);

* * * * *

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

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

Authority: 42 U.S.C. 1437a, 1437c, 1437d, 1437n, 1437z-3, and 3535(d).

8. In § 960.257, redesignate paragraphs (b)(3) and (c) as paragraphs (c) and (d), respectively, and revise redesignated paragraph (c) to read as follows:

§ 960.257 Family income and composition: Annual and interim reexaminations.

* * * * *

(c) Streamlined income determination—(1) General. A PHA may elect to apply a streamlined income determination to families receiving fixed income, as described in paragraph (c)(3) of this section.

(2) Definition of “fixed income”. For purposes of this section, “fixed income” means periodic payments at reasonably predictable levels from one or more of the following sources:

(i) Social Security, Supplemental Security Income, Supplemental Disability Insurance.

(ii) Federal, state, local, or private pension plans.

(iii) Annuities or other retirement benefit programs, insurance policies, disability or death benefits, or other similar types of periodic receipts.

(iv) Any other source of income subject to adjustment by a verifiable COLA or current rate of interest.

(3) Method of streamlined income determination. A PHA using the streamlined income determination must adjust a family's income according to the percentage of a family's unadjusted income that is from fixed income.

(i) When 90 percent or more of a family's unadjusted income consists of fixed income, PHAs using streamlined income determinations must apply a COLA or COLAs to the family's sources of fixed income, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed income and that their sources of fixed income have not changed from the previous year. For non-fixed income, the PHA may choose, but is not required, to make appropriate adjustments pursuant to paragraph (a) of this section.

(ii) When less than 90 percent of a family's unadjusted income consists of fixed income, PHAs using streamlined income determinations must apply a COLA to each of the family's sources of fixed income individually. The PHA must determine all other income pursuant to paragraph (a) of this section.

(4) COLA rate applied by PHAs. PHAs using streamlined income determinations must adjust a family's fixed income using a COLA or current interest rate that applies to each specific source of fixed income and is available from a public source or through tenant-provided, third-party-generated documentation. If no public verification or tenant-provided documentation is available, then the owner must obtain third-party verification of the income amounts in order to calculate the change in income for the source.

(5) Triennial verification. For any income determined pursuant to a streamlined income determination, a PHA must obtain third-party verification of all income amounts every 3 years.

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**PART 982 – SECTION 8 TENANT-BASED ASSISTANCE: HOUSING CHOICE
VOUCHER PROGRAM**

9. The authority citation for part 982 continues to read as follows:

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

10. In § 982.516, revise paragraph (b) to read as follows:

§ 982.516 Family income and composition: Annual and interim reexaminations.

* * * * *

(b) Streamlined income determination—(1) General. A PHA may elect to apply a streamlined income determination to families receiving fixed income as described in paragraph (b)(3) of this section.

(2) Definition of “fixed income”. For purposes of this section, “fixed income” means periodic payments at reasonably predictable levels from one or more of the following sources:

- (i) Social Security, Supplemental Security Income, Supplemental Disability Insurance.
- (ii) Federal, state, local, or private pension plans.

(iii) Annuities or other retirement benefit programs, insurance policies, disability or death benefits, or other similar types of periodic receipts.

(iv) Any other source of income subject to adjustment by a verifiable COLA or current rate of interest.

(3) Method of streamlined income determination. A PHA using the streamlined income determination must adjust a family’s income according to the percentage of a family’s unadjusted income that is from fixed income.

(i) When 90 percent or more of a family's unadjusted income consists of fixed income, PHAs using streamlined income determinations must apply a COLA or COLAs to the family's fixed-income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed income and that their sources of fixed income have not changed from the previous year. For non-fixed income, the PHA may choose, but is not required, to make appropriate adjustments pursuant to paragraph (a) of this section

(ii) When less than 90 percent of a family's unadjusted income consists of fixed income, PHAs using streamlined income determinations must apply a COLA to each of the family's sources of fixed income individually. The PHA must determine all other income pursuant to paragraph (a) of this section.

(4) COLA rate applied by PHAs. PHAs using streamlined income determinations must adjust a family's fixed income using a COLA or current interest rate that applies to each specific source of fixed income and is available from a public source or through tenant-provided, third-party-generated documentation. If no public verification or tenant-provided documentation is available, then the owner must obtain third-party verification of the income amounts in order to calculate the change in income for the source.

(5) Triennial verification. For any income determined pursuant to a streamlined income determination, a PHA must obtain third-party verification of all income amounts every 3 years.

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Dated: November 8, 2017

Pamela H. Patenaude, Deputy Secretary

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