

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 985

[Docket No. FR-4498-F-02]

RIN 2577-AC10

Technical Amendment to the Section 8 Management Assessment Program (SEMAP); Final Rule

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

ACTION: Final rule.

SUMMARY: On July 26, 1999, HUD published an interim rule amending its regulations for the Section 8 Management Assessment Program (SEMAP). The interim rule made several technical amendments to conform the SEMAP regulations to the requirements of the Single Audit Act Amendments of 1996. This final rule makes final the amendments made by the July 26, 1999 interim rule. HUD has adopted the interim rule without change.

Additionally, this final rule makes several amendments to conform the SEMAP regulations to HUD's October 21, 1999 final rule implementing the statutory merger of the Section 8 tenant-based certificate and voucher programs.

DATES: *Effective Date:* January 3, 2000.

FOR FURTHER INFORMATION CONTACT:

Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Room 4210, 451 Seventh Street, SW, Room 4210, Washington, DC 20410; telephone: (202) 708-0477 (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

I. The July 26, 1999 Interim Rule

On July 26, 1999 (64 FR 40496), HUD published an interim rule amending its regulations for the Section 8 Management Assessment Program (SEMAP). The interim rule, which became effective on August 25, 1999, made various technical amendments to conform the SEMAP regulations to the requirements of the Single Audit Act Amendments of 1996. Specifically, the interim rule provides that HUD will base its SEMAP rating for a housing authority (HA) based on the HA's SEMAP certification to HUD, rather than on the independent auditor's annual audit report. HUD continues to rely on the independent auditor to

verify the accuracy of the HA's SEMAP certification with respect to the eight SEMAP indicators. The July 26, 1999 interim rule also clarifies that HUD confirmatory reviews will be used as an additional method of verification to the extent they are performed.

The July 26, 1999 interim rule requires the HA to submit a SEMAP certification concerning the results of its supervisory quality control reviews of file samples drawn in an unbiased manner to ensure compliance under four SEMAP indicators ((1) Selection from the Waiting List; (2) Reasonable Rent; (3) Determination of Adjusted Income; and (4) HQS Enforcement). The interim rule, therefore, requires the HA to perform annual quality control reviews of its performance under these indicators in order to complete the SEMAP certification form.

The July 26, 1999 interim rule also revises the SEMAP standard under § 985.3(e) for Housing Quality Standards (HQS) quality control inspections. This indicator is changed to require HQS quality control samples of the same minimum sample size as required for other supervisory quality control reviews. The requirement for a 5 percent HQS quality control sample no longer applies.

II. Finalizing the July 26, 1999 Interim Rule

This final rule finalizes the amendments made by the July 26, 1999 interim rule. The public comment period on the interim rule closed on September 24, 1999. No public comments were submitted on the interim rule. Accordingly, HUD is adopting the interim rule without change.

III. Conforming Amendments to 24 CFR Part 985

In addition to finalizing the July 26, 1999 interim rule, this final rule makes various amendments to conform the SEMAP regulations to HUD's October 21, 1999 (64 FR 56894) final rule implementing the statutory merger of the Section 8 tenant-based certificate and voucher programs. The October 21, 1999 final rule implemented section 545 of the Quality Housing and Work Responsibility Act of 1998 (Title V of the FY 1999 HUD Appropriations Act; Public Law 105-276, approved October 21, 1998). The new tenant-based program (known as the Housing Choice Voucher program) has features of the previously authorized certificate and voucher programs, plus new features. Interested persons should consult the preamble to the October 21, 1999 final rule for additional details.

The conforming changes made by this final rule do not establish or modify any substantive SEMAP requirements. Rather, these amendments conform the SEMAP regulations at 24 CFR part 985 to the requirements of the new Housing Choice Voucher program. The most significant of the conforming amendments made by this final rule are as follows:

- Part 985 has been revised to consistently use the term "PHA" rather than "HA" when referring to a public housing agency.
- This final rule updates several regulatory citations to the regulations at 24 CFR part 982.
- The final rule updates 24 CFR part 985 by replacing the terms "area exception rents" and "exception rents" with the term "exception standard amounts."
- The SEMAP payment standards indicator at § 985.3(i) has been revised to reflect the fact that, under the Housing Choice Voucher program, there are no more initial gross rents under the Section 8 certificate program.
- The discussion of correct tenant rent calculations at § 985.3(k) has been revised to remove all references to over-Fair Market Rent (FMR) tenancies. Such tenancies no longer exist under the Housing Choice Voucher program.

IV. Findings and Certifications

Environmental Impact

A Finding of No Significant Impact with respect to the environment for this rulemaking was made at the interim rule stage, in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. That finding remains applicable to this final rule and is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW, Washington, DC 20410.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule would not have a significant economic impact on a substantial number of small entities. There are no anti-competitive discriminatory aspects of the rule with regard to small entities, and there are not any unusual procedures that would need to be complied with by small entities.

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 final rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance Program numbers assigned to the Section 8 Management Assessment Program are 14.855 and 14.857.

List of Subjects for 24 CFR Part 985

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

PART 985—SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP)

For the reasons discussed in the preamble, HUD adopts the amendments made to 24 CFR part 985 in the interim rule published on July 26, 1999 at 64 FR 40496 without change and makes the following additional amendments to 24 CFR part 985 as follows.

1. The authority citation for Part 985 continues to read as follows:

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

1a. In part 985, "HA" is removed and "PHA" is added in its place wherever it appears, and "an HA" is removed and

"a PHA" is added in its place wherever it appears.

2. Amend § 985.3 as follows:

a. In paragraph (b)(1), revise the reference to "§ 982.503" to read "§ 982.507";

b. In paragraph (b)(3)(i)(B), revise the reference to "§ 982.503" to read "§ 982.507";

c. In paragraph (e)(1), revise the reference to "§ 983.2" to read "§ 985.2";

d. In paragraph (g)(1), revise the reference to "§ 982.301(b)(5)" to read "§ 982.301(b)(4)";

e. In paragraph (g)(1) revise the reference to "§ 982.301(b)(13)" to read "§ 982.301(b)(12)";

f. In paragraphs (g)(1), (g)(3)(i)(C), (g)(3)(i)(D), and (g)(3)(i)(F), remove the references to "and certificate" and "or certificate" wherever they appear;

g. In paragraph (g)(3)(i)(D), revise the reference to the plural "programs" to the singular "program";

h. In paragraph (g)(3)(i)(F), revise the references to "area exception rents" and "exception rents" to read "exception payment standard amounts";

i. Revise paragraphs (i); and

j. Revise the second sentence of paragraph (k)(2).

§ 985.3 Indicators, HUD verification methods and ratings.

* * * * *

(i) *Payment standards.* (1) This indicator shows whether the PHA has adopted a payment standard schedule that establishes voucher payment standard amounts by unit size for each FMR area in the PHA jurisdiction, and, if applicable, separate payment standard amounts by unit size for a PHA-designated part of an FMR area, which payment standards do not exceed 110 percent of the current applicable published FMRs and which are not less than 90 percent of the current

applicable published FMRs (unless a higher or lower payment standard amount is approved by HUD). (§ 982.503 of this chapter.)

(2) HUD verification method: PHA data submitted on the SEMAP certification form concerning payment standards.

(3) Rating:

(i) The PHA's voucher program payment standard schedule contains payment standards which do not exceed 110 percent of the current applicable published FMR and which are not less than 90 percent of the current applicable published FMR (unless a higher or lower payment standard amount is approved by HUD). 5 points.

(ii) The PHA's voucher program payment standard schedule contains payment standards which exceed 110 percent of the current applicable published FMRs or which are less than 90 percent of the current applicable published FMRs (unless a higher or lower payment standard amount is approved by HUD). 0 points.

* * * * *

(k) * * *

(2) * * * The MTCS data used for verification cover only voucher program and regular certificate program tenancies, and do not include rent calculation discrepancies for manufactured home owner rentals of manufactured home spaces under the certificate program or for proration of assistance under the noncitizen rule.

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Dated: November 23, 1999.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

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