

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 902, 903 and 985

[Docket No. FR-4753-F-02]

RIN 2577-AC34

Deregulation for Small Public Housing Agencies

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

ACTION: Final rule.

SUMMARY: This final rule simplifies and streamlines HUD's regulatory requirements for small public housing agencies (PHAs) that administer the public housing and voucher assistance programs under the United States Housing Act of 1937 (1937 Act). Consistent with HUD's basic regulatory responsibilities, the final rule further streamlines the PHA Annual Plan requirements for certain small PHAs and deregulates the assessment and scoring of small PHAs under the Public Housing Assessment System (PHAS) and the Section 8 Management Assessment Program (SEMAP). These changes will alleviate administrative burden and better enable small PHAs to focus on their core mission of providing decent, safe, and affordable housing for the neediest American families. The final rule follows publication of an August 14, 2002, proposed rule and takes into consideration the public comments received on the proposed rule.

DATES: Effective Date: July 24, 2003.

FOR FURTHER INFORMATION CONTACT: Bessy Kong, Deputy Assistant Secretary for Policy, Program, and Legislative Initiatives, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4116, Washington, DC 20410-0001; telephone (202) 708-0713 (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. Background

On August 14, 2002 (67 FR 53276), HUD published a proposed rule for public comment to simplify and streamline its regulatory requirements for small public housing agencies (PHAs) that administer the public housing and voucher assistance programs under the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*) (1937 Act). The proposed rule would further streamline the PHA

Annual Plan requirements for certain small PHAs. The proposed rule also would deregulate the assessment and scoring of small PHAs under the Public Housing Assessment System (PHAS) and the Section 8 Management Assessment Program (SEMAP), consistent with HUD's basic regulatory responsibilities. The proposed changes were designed to alleviate administrative burden and better enable small PHAs to focus on their core mission of providing decent, safe, and affordable housing for the neediest American families. In addition to the changes that solely concern small PHAs, the proposed rule would also streamline HUD's review of the Annual Plans submitted by all PHAs (large and small). The preamble to the August 14, 2002, proposed rule provides additional details regarding the proposed deregulatory changes to HUD's regulations.

II. This Final Rule; Significant Changes to the August 14, 2002, Proposed Rule

This final rule follows publication of the August 14, 2002, proposed rule and takes into consideration the public comments received on the proposed rule. The most significant differences between this final rule and the August 14, 2002, proposed rule are as follows:

Additional streamlined Annual Plan components. The final rule provides that, in addition to information regarding capital improvements and the civil rights certification, the streamlined Annual Plans submitted by small PHAs must also address any PHA initiatives concerning site-based waiting lists (see § 903.7(b)(2)), any homeownership programs administered under section 8(y) of the 1937 Act (see § 903.7(k)(1), and any project-based voucher assistance (as provided in section II.D. of HUD's January 16, 2001, **Federal Register** notice regarding revisions to the PHA Project-Based Assistance Program (66 FR 3605 at 3608, middle column) and section III.C. of PIH Notice 2001-4 issued on January 19, 2001), if applicable. This information concerns discretionary PHA programs and policies that are required, either by regulation or statute, to be addressed in the PHA Plan, and for which no alternative method exists for obtaining prior HUD approval.

SEMAP exemption for non-audit PHAs. The proposed rule would have exempted small PHAs not subject to the requirements of the Single Audit Act from review under SEMAP. The final rule no longer exempts these small PHAs from SEMAP review. Small, non-audit PHAs will continue to be subject to SEMAP assessment and scoring, in

accordance with the current SEMAP regulations.

Timing of biennial PHAS and SEMAP assessments. The final rule continues to provide for biennial PHAS and SEMAP assessments for small PHAs. To facilitate compliance with biennial assessments, PHAs with fiscal years ending in the first four quarters following the effective date of this final rule will not be evaluated under PHAS or SEMAP for that fiscal year.

III. Discussion of the Public Comments Received on the August 14, 2002, Proposed Rule

The public comment period on the August 14, 2002, proposed rule closed on September 13, 2002. HUD received twenty-one public comments on the proposed rule. Comments were received from PHAs, two of the major national organizations representing PHAs, and low-income housing advocates, and service providers. The majority of the commenters supported the rule and applauded HUD's efforts to provide regulatory relief for small PHAs. Several commenters, however, had reservations about certain elements of the rule and suggested changes for addressing these concerns. In many cases, the commenters recommended additional deregulatory changes not contained in the proposed rule.

The summary of comments that follows presents the major issues and questions raised by the public commenters on the August 14, 2002, proposed rule. The underlined headings present the issue or question and are followed by a brief description of the commenter's reasoning. The discussion of the public comments is organized as follows:

Section IV of this preamble discusses the general public comments on the proposed rule.

Section V of the preamble discusses the public comments regarding the proposed changes to the PHA Annual Plan requirements.

Section VI of the preamble discusses the public comments regarding the proposed changes to the PHAS.

Section VII of the preamble discusses the public comments regarding the proposed changes to SEMAP.

IV. Discussion of General Public Comments on the Proposed Rule

Comment: Support for proposed rule. The majority of the public commenters supported the proposed rule, applauding HUD's efforts to reduce the regulatory burden imposed on small PHAs. The commenters wrote that the proposed rule is a "firm step in the right direction" and "offers a foundation to