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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 982

[Docket No. FR-4759-F-03]

RIN 2577-AC39

Housing Choice Voucher Program Homeownership Option: Eligibility of Units Owned or Controlled By a Public Housing Agency

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

ACTION: Final rule.

SUMMARY: This final rule provides that units owned or substantially controlled by a public housing agency (PHA) are eligible for purchase under the Housing Choice Voucher Program homeownership option. The inclusion of PHA-owned or controlled properties among properties eligible for purchase under the homeownership option will expand the availability of housing and affordable homeownership opportunities for voucher families participating in the homeownership option. The final rule also establishes procedures to remove potential conflicts of interest where the PHA is the seller. These provisions are modeled on the requirements for PHA-owned units in the voucher rental program. The final rule follows publication of an October 28, 2002, interim rule. After consideration of the issues raised by the single public commenter on the interim rule, HUD has decided to adopt the interim rule without change.

DATES: *Effective Date:* October 17, 2003.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Office of Public and Indian Housing, Department of Housing and Urban Development, Room 4210, 451 Seventh Street, SW., Washington, DC 20410-5000; telephone (202) 708-0477. (This is not a toll-free number.) Hearing- or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION

I. Background

On October 28, 2002 (67 FR 65864), HUD published an interim rule providing that units owned or substantially controlled by a public housing agency (PHA) are eligible for purchase under the Housing Choice Voucher Program homeownership

option. Under the "homeownership option" of the Housing Choice Voucher Program, a PHA may choose to provide monthly homeownership assistance to an eligible family that purchases a dwelling unit to be occupied by the family. On November 6, 2002 (67 FR 67522), HUD published a technical correction to the October 28, 2002, interim rule, correcting a typographical error concerning the designation of the paragraph being added to the voucher program regulations.

The October 28, 2002, interim rule amended § 982.628 of the homeownership option regulations, which concerns the eligibility of units, to specify that a PHA may provide homeownership assistance for the purchase of a PHA-owned unit. The inclusion of PHA-owned units in the universe of eligible units expands the availability of housing and affordable homeownership opportunities for voucher families participating in the homeownership option.

The October 28, 2002, interim rule provides that PHA-owned units are eligible for purchase through the homeownership option, but provides that an independent entity must perform certain administrative duties for which the PHA would normally be responsible. The independent entity must review the contract of sale, conduct the initial housing quality standards (HQS) inspection, and review the independent inspection report. In addition, the independent entity must determine the reasonableness of the sales price and any PHA-provided financing.

The reviews performed by the independent entity shall be conducted in accordance with the homeownership option regulations. The independent entity must be selected by the PHA and approved by HUD in accordance with existing procedures under the tenant-based assistance program at § 982.352(b)(iv)(B) and (C). The PHA may not steer, direct, or require families to purchase PHA-owned properties.

II. This Final Rule; Discussion of the Public Comment on the October 28, 2002, Interim Rule

This final rule follows publication of the October 28, 2002, interim rule. The public comment period on the interim rule closed on December 27, 2002. HUD received a single public comment on the interim rule from the New York City Housing Authority. After consideration of the issues raised by the public commenter, and for the reasons discussed below, HUD has decided to adopt the interim rule without change.

The commenter supported the changes made by the interim rule, writing that the rule "expands the choices available especially in markets where the affordable stock is decreasing." However, the commenter also wrote that high-cost communities, such as New York City, have been unable to implement the voucher homeownership option due to HUD's program design and the nearly prohibitive costs of housing. The commenter suggested that HUD revise the regulations governing the homeownership option to address these concerns. The commenter recommended that HUD authorize the use of project-based voucher assistance to provide voucher homeownership assistance. The commenter also suggested that the maximum term of voucher homeownership assistance (typically fifteen years in most cases under § 982.634) should be made equal to the term of the mortgage obtained by the homebuyer (typically thirty years). Finally, the commenter recommended that HUD allow PHAs to provide voucher homeownership assistance at 120% of the published Fair Market Rent.

As noted, HUD has not revised the interim rule in response to these comments, and is adopting the final rule without change. The changes suggested by the commenter were not included as part of, and are outside the scope of, the October 28, 2002, interim rule which focused on making PHA-owned or controlled properties eligible for purchase under the Housing Choice Voucher Program. The changes recommended by the commenter are more appropriately directed towards the Section 8 homeownership option rule, a separate rulemaking proposed on April 30, 1999 (64 FR 23488), and made final on September 12, 2002 (65 FR 55134). HUD considered the substance of the changes recommended by the commenter in the course of that rulemaking. Since the changes are outside the scope of the interim rule, HUD is not prepared to adopt the suggested changes at this final rule stage. HUD will consider the recommended changes should it decide to undertake future rulemaking to amend the homeownership option regulations.

III. Findings and Certifications

Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866 (entitled "Regulatory Planning and Review").