

Rural Housing Service Modifies Operation of Rural Voucher Program

For the third time in as many years, the Rural Housing Service (RHS) has modified the operation of the Rural Voucher Demonstration Program, this time without giving the public official notice of the changes and without fully explaining the effects of the changes.¹ The changes were made in an Unnumbered Letter (UL) sent by the Rural Housing Service to all state Rural Development (RD) Offices and published only on the Rural Development website.²

Most significantly, it is not clear from the UL whether it is intended to replace or supplement the Notice that the agency published in the Federal Register on March 24, 2008,³ setting out its then current policies for operating the program. Thus, it is not clear, for example, whether the voucher term, which was set at three years in the March Federal Register notice, continues to be in effect or whether that unauthorized term has been lifted.⁴

Most significantly, the UL announces that field administration of the voucher program has been contracted to Quadel Consulting Corporation. In that role, Quadel is responsible for sending notices to residents of developments whose owners have announced their intention to prepay the Section 515 loans, retrieving from tenants and forwarding to RD Voucher Obligation Forms, forwarding the Housing Assistance Payment (HAP) contracts to the owners, and forwarding voucher renewal packets to residents.

The UL also makes clear that voucher eligibility is not restricted to residents living in developments whose owners are prepaying their loans early. They are also available to residents of developments that are being foreclosed upon by RD, prepaid in response to a loan acceleration, debt settlement, compromise offer, or transfer of the development by a deed-in-lieu of foreclosure, and held by RD as inventory property.

¹Unnumbered Letter from James C. Alsop, Acting Administrator Housing and Community Facilities Programs, to State Directors, Rural Development (April 10, 2008).

²Unnumbered Letters (ULs) are formal letters from the Rural Housing Service to Rural Development field staff. They are available on the RD website at http://www.rurdev.usda.gov/regs/ul_list.html. Typically ULs address administrative issues and clarifications regarding RHS program policy. They are posted to the RD website on a regular basis in the month that they are published. Information published in a UL may reflect agency policy but it does not satisfy the publication, notice or comment requirements of a statute requiring RHS to publish its regulations for comment, 42 U.S.C. § 1490, or the requirements of the Administrative Procedures Act, 5 U.S.C. § 703.

³73 Fed. Reg. 15,473.

⁴For a review of the RHS March 24, notice see NHLP, *RHS Makes Dramatic Changes to Rural Voucher Program*, 38 HOUS. L. BULL. 92 (Apr.-May 2008).

The UL continues to make clear that only citizens and permanent residents are eligible to receive the vouchers but that a copy of a birth certificate from a United States hospital bearing an official seal is an acceptable form of proof of United States' citizenship.⁵

The UL relieves tenants and landlords from having to forward leases to RD for review. This is unfortunate, as it provides no independent review of leases entered under the HAP contract.

It is unfortunate that RHS has chosen to operate the Voucher Demonstration Program for over three years without publishing regulations for public comment. Many of the program's provisions do not conform to the authorizing law and thus deprive program participants of rights that are guaranteed them by statute. It is expected that Congress will soon adopt new legislation that will establish a permanent rural voucher program that RHS will be forced to implement according to the Administrative Procedures Act. ■

⁵As discussed in the *Housing Law Bulletin* article, *supra*, the citizenship restrictions adopted for the voucher program are inconsistent with many of the provisions of the statute authorizing RD to restrict its programs to citizens and persons legally admitted to the United States. Most importantly, it does not permit mixed-households to secure a voucher and does not provide for an appeal of a decision denying a voucher to a household.