

information to the responsible entity or to HUD to assist in the completion of those requirements.

6. *HUD's Strategic Goals.* HUD is committed to ensuring that programs result in the achievement of HUD's strategic mission. HCVs awarded under this NOFA support the Department's strategic goals of expanding access to and the availability of decent, affordable rental housing. For more information about HUD's Strategic Plan and Annual Performance Plan, you may visit HUD's Web site at <http://www.hud.gov/offices/cfo/reports/cforept.cfm>. Also, see Section V.B. of the FY 2008 General Section for information on "HUD's Strategic Goals to Implement HUD's Strategic Framework and Demonstrate Results".

7. *HUD Policy Priorities.* HCVs awarded under this NOFA supports HUD's policy of providing increased homeownership and rental opportunities for low- and moderate-income persons.

### C. Reporting

1. *Family Report.* All successful applicants including MTW agencies) must report the usage of voucher funds under this NOFA through required submissions of the form HUD-50058, Family Report. PHAs must enter the program code "FUP" on line 2n of the Family Report for families who are assisted with vouchers under this NOFA. PHAs must maintain this code on the form HUD-50058 for the duration of the family's participation in the HCV program.

2. *Racial and Ethnic Data.* HUD requires that funded recipients collect race and ethnic beneficiary data. HUD has adopted the Office of Management and Budget Standards for the Collection of Race and Ethnic Data. In view of these requirements, you should use form HUD-27061, *Racial and Ethnic Data Reporting Form (instruction for its use)*, found on [www.HUDclips.org](http://www.HUDclips.org) for this purpose.

### VII. Agency Contacts

1. *Technical Assistance.* Before the application deadline date, you can contact the Public and Indian Housing Resource Center (PIHRC) for answers to your questions. However, staff is not permitted to assist in preparing your application. Also, following selection of applicants, but before awards are announced, staff may assist in clarifying or confirming information that is a prerequisite to the offer of an award. The PIHRC can be reached by calling 1-800-955-2232 (this is a toll free number). Persons with hearing or speech impairments may access these

numbers via TTY (text telephone) by calling the Federal Information Relay Service at 1-800-877-8339 (this is a toll-free number). For technical support for registering to apply using [www.grants.gov](http://www.grants.gov), downloading an application, or electronically submitting an application, please call Grants.gov Customer Support at 800-518-GRANTS (472687) (This is a toll-free number) or e-mail [support@grants.gov](mailto:support@grants.gov).

2. *Satellite Broadcast.* HUD will not have a satellite broadcast on the FUP.

### VIII. Other Information

A. *Public Access, Documentation and Disclosure:* For information, please review section VIII.G. of the *FY 2008 General Section*.

B. *Paperwork Reduction Act:* The information collection requirements contained in this document have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and approval is pending. Once approved, HUD will publish a notice in the **Federal Register** notifying the public regarding the OMB approval number. In accordance with the Paperwork Reduction Act, HUD 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 number.

Dated: November 10, 2008.

**Paula O. Blunt,**

*General Deputy Assistant Secretary for Public and Indian Housing.*

[FR Doc. E8-27873 Filed 11-21-08; 8:45 am]

**BILLING CODE 4210-67-P**

### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5242-N-01]

#### The Housing and Economic Recovery Act of 2008 Applicability to HUD Public Housing, Section 8 Tenant-Based Voucher and Section 8 Project-Based Voucher Programs

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

**ACTION:** Notice.

**SUMMARY:** This notice provides information about the applicability to HUD's public housing and Section 8 tenant-based and project-based voucher programs of certain provisions of the Housing and Economic Recovery Act of 2008. This notice provides an overview of key provisions that affect HUD's public housing programs, identifies those provisions that are self-

implementing and require no action on the part of HUD for participants to commence taking action to be in compliance, those provisions that require implementing regulations on the part of HUD, and advises of efforts underway within HUD to further facilitate compliance with this new law, including rules and guidance that as may be necessary or appropriate. Provisions of this new law that affect project-based assisted housing programs administered by HUD's Office of Housing are also identified. This notice also solicits comments, questions, or proposals that HUD should take into consideration in developing more detailed guidance or rules to implement those provisions of the new law that require more detailed guidance or rulemaking.

**DATES:** *Comment Due Date:* December 24, 2008.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, 451 7th Street, SW., Room 10276, Department of Housing and Urban Development, Washington, DC 20410-0500. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. *Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, 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](http://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 them immediately available to the public. Comments submitted electronically through the [www.regulations.gov](http://www.regulations.gov) Web site 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 Facsimile Comments.* Facsimile (FAX) comments are not acceptable.

*Public Inspection of Public Comments.* 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 through TTY by calling the Federal Information Relay Service at 800-877-8339. Copies of all comments submitted are available for inspection and downloading at [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** For information about HUD's Public Housing and Voucher programs, contact David Vargas, Associate Deputy Assistant Secretary for Public Housing and Voucher Programs, Office of Public and Indian Housing, Room 4206, telephone number 202-708-2815. For information about the HUD's Capital Fund program, please contact Jeffrey Riddel, Director, Capital Program Division, Office of Public and Indian Housing, Room 4130, telephone number 202-401-8812. The address for both offices is the Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410. The listed telephone numbers are not toll-free numbers. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

**SUPPLEMENTARY INFORMATION:**

**I. Overview**

The Housing and Economic Recovery Act of 2008 (Pub. L. 110-289, 122 Stat. 2654, approved July 30, 2008) (HERA) made a number of changes to the U.S. Housing Act of 1937 (42 U.S.C. 1437 *et seq.*) (1937 Act) that affect PIH programs, including changes to the definition of income, which also affect the Office of Housing's project-based assistance programs; the public housing agency (PHA) plan; the voucher program; the capital and operating funds with respect to emergency funds; and establishing a collection of information on tenants in tax credit projects. This notice identifies those changes and provides information to program participants on how those changes affect HUD's public housing programs.

**II. HERA Amendments to the 1937 Act**

Under the 1937 Act, HUD promotes the goal of providing decent and affordable housing for all citizens by providing funds for housing assistance. These funds directly assist PHAs to provide affordable publicly owned housing and also subsidize affordable privately owned housing. HERA makes changes that affect both public and private affordable housing, as described in this notice.

*A. Definition of Annual Income*

Section 2608 of Title VI of Division B of HERA amends the definition of "annual income" in section 3(b)(4) of the 1937 Act to exclude any deferred Department of Veterans Affairs (VA) disability benefits that are received in a lump sum amount or in prospective monthly amounts from the definition of income. Accordingly, as of the effective date of HERA, July 30, 2008, such benefits are not to be included for purposes of determining the annual income of an applicant for or recipient of benefits under the 1937 Act. This income exclusion is similar to the existing exclusion for deferred periodic amounts from supplemental security income and Social Security benefits under 24 CFR 5.609(c)(14). Although the full amount of periodic Social Security payments is included in annual income pursuant to 24 CFR 5.609(b)(4), the deferred amount resulting from the delayed start of the periodic payment is not included in annual income. In the same way, the full amount of periodic VA disability benefit payments will continue to be included in annual income pursuant to 24 CFR 5.609(b)(4), but the deferred amount resulting from the delayed start of the disability payments will not be included in annual income. A payment qualifies as a VA disability benefit if it is identified as a disability benefit in the VA benefit award letter, regardless of whether or not the family member that is the beneficiary of the award would qualify as a person with disabilities under HUD's regulations. For existing residents or tenants, including those residing in project-based assisted housing administered by HUD's Office of Housing, the new exclusion for deferred payments will be made applicable at the time of annual recertification of income, or at interim examination. This provision is self-implementing without further regulatory action by HUD. HUD will later publish a conforming rule to include this item with the exclusion from income for deferred Social Security benefits at 24 CFR 5.609(c)(14).

*B. Qualified Public Housing Agencies*

Section 2702 of Title VII of Division B of HERA amends section 5A(b) of the 1937 Act by establishing "qualified public housing agencies," a category of PHAs that are provided substantial paperwork relief, primarily with respect to the PHA Annual Plan requirements in section 5(A)(b) of the 1937 Act. The requirement for preparation and submission of a 5-year plan pursuant to section 5A(a) of the 1937 Act is not affected.

A PHA is a "qualified public housing agency" if the PHA is not designated as a troubled PHA, does not have a failing score under the Section 8 Management Assessment Program during the prior 12 months, and if the sum of the public housing units administered by the agency and the section 8(o) vouchers authorized under the PHA's Consolidated Annual Contributions Contract, is 550 or less. The paperwork relief to qualified PHAs, as provided in section 2702, is effective as of the effective date of HERA, July 30, 2008, and will be made applicable to such PHAs commencing with the next date of Annual Plan submission.

HUD will make conforming changes to its regulations at 24 CFR part 903 and issue guidance, as may be determined necessary, to further address qualified PHAs, including the following statutory provisions that are applicable to qualified PHAs. The statutory provisions applicable to qualified PHAs are self-implementing.

1. *Public Housing Agency (PHA) Plans.* New section 5A(b)(3)(A) of the 1937 Act excludes qualified PHAs from the requirement to prepare and submit an annual PHA plan.

2. *Civil Rights Certification.* Even though an annual PHA plan is not required of a qualified PHA, section 5A(b)(3)(B) maintains the requirement for such agencies to prepare and submit the annual civil rights certification provided for in section 5A(d)(16) of the 1937 Act. Accordingly, qualified PHAs must continue to submit their civil rights certifications to HUD for review.

3. *Resident Advisory Board.* A new section 5A(d)(4) is added to affirm that qualified PHAs are still subject to the requirement to establish one or more resident advisory boards. A requirement is also added to consult with, and consider the recommendations of, the resident advisory board at the annual public hearing required under new section 5A(f)(5), regarding any changes to the goals, objectives, and policies of the PHA.

4. *Annual Public Meeting.* As noted in paragraph B.3. of this notice, new

section 5A(f)(5) of the 1937 Act requires a qualified PHA to conduct annually a public hearing to discuss any changes to the goals, objectives, and policies of the agency; and to invite public comment regarding such changes. The PHA must publish a notice of the hearing and relevant information, and make such information available for inspection at its principal office, at least 45 days before the date that the hearing is held.

#### C. Section 9 Emergency Set-Aside

Section 2804 of Title VIII of Division B of HERA strikes section 9(k) of the 1937 Act, which is entitled "Emergency Reserve and Use of Amounts." The removal of section 9(k) eliminates the requirement imposed on HUD to set aside, in each fiscal year, not more than two percent of the total amount of public housing operating funds and capital funds made available each fiscal year through appropriations acts for emergencies and other disasters and housing needs resulting from any settlement of litigation. Section 9(k) was applicable to and imposed an obligation on HUD.

#### D. Section 8 Tenant Based Assistance: Housing Choice Voucher Program—Rent for Tax Credit Units

Subtitle B of Title VIII of HERA (sections 2831 through 2835) makes a number of changes to coordinate tax incentives for private housing and federal housing programs, including the Section 8 voucher program. As one of these changes, the procedure for determining the rent reasonableness standard applicable to dwelling units receiving low-income housing tax credits (LIHTC) or assistance under the HOME Investments Partnership (HOME) program is streamlined by section 2835(a)(2) of HERA, which adds section 8(o)(10)(F) of the 1937 Act.

A rent comparison with unassisted local market units is not required for such dwelling units if the rent does not exceed the rent for other LIHTC or HOME assisted units in the project that are not occupied by families with tenant based assistance. The rent shall be considered reasonable if it does not exceed the greater of (1) the rent for other LIHTC or HOME assisted units in the project not occupied by families with tenant based assistance, or (2) the payment standard established by a PHA for a unit of the size involved. This provision is effective and may be used commencing with the date of enactment of HERA, July 30, 2008. Accordingly, this provision is self-implementing. HUD will make conforming changes to its regulations at 24 CFR 982.507 to reflect this statutory provision.

#### E. Section 8 Project Based Voucher Program

Section 2835(a)(1) of HERA makes several changes to the Section 8 project-based voucher (PBV) program under section 8(o)(13) of the 1937 Act (42 U.S.C. 1437f(o)(13)) and 24 CFR part 983 of HUD's regulations, as follows:

1. *Applicability of 25 Percent Cap on Number of PBV Units.* Prior to amendment by section 2835(a)(1)(A) of HERA, PBV assistance was limited to 25 percent of the units in a building. This cap in section 8(o)(13)(D)(i) of the 1937 Act is amended by replacing the term "building" with the term "project," defined to mean a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land. HUD will make conforming changes to its regulations at 24 CFR 983.56 to reflect this statutory provision. Accordingly, this provision is self-implementing. HUD specifically requests comments on the impact on deconcentration efforts concerning the change in terms from "building" to "project" as discussed in this Section II.E.1 of this notice.

2. *Term of Initial Housing Assistance Payment (HAP) Contract.* The maximum term of the initial HAP contract provided in section 8(o)(13)(F) of the 1937 Act is extended from 10 to 15 years by section 2835(a)(1)(B) of HERA. HUD considers this provision to be available for use commencing with the date of enactment of HERA, July 30, 2008. Accordingly, this provision is self-implementing. Conforming changes will be made to HUD's regulations to reflect the longer permissible term of the initial HAP contract.

3. *Extension of initial term.* Section 8(o)(13)(G) of the 1937 Act is amended by HERA section 2835(a)(1)(C) to specify the maximum term for an extension of the HAP contract as 15 years, at the election of the PHA and owner. A PHA may agree to enter into an extension at the time of the initial HAP contract or any time before expiration of the contract. This provision may be utilized commencing with the date of enactment of HERA, July 30, 2008. Although this provision is self-implementing, such contract or contract extension may not exceed 15 years cumulatively. Additionally, a PHA must still determine that the extension of the contract is appropriate to achieve long-term affordability of the housing or to expand housing opportunities.

HUD will make conforming changes to its regulations, as well as any additional changes related to contract extensions that may be necessary for the

orderly administration of the PBV program.

4. *Rent calculation.* Language is added by section 2835(a)(1)(D) of HERA to section 8(o)(13)(H) of the 1937 Act to permit a PHA to use the higher section 8 rent for a tax credit unit if the LIHTC rent is less than the amount that would be permitted under section 8. The rent reasonableness of section 8(o)(10)(A) must also continue to be met.

This provision may be utilized commencing with the date of enactment of HERA, July 30, 2008. Accordingly, this provision is self-implementing. A conforming change to HUD's regulations will follow.

5. *Rent adjustments.* Section 2835(a)(1)(E) of HERA amends section 8(o)(13)(I) of the 1937 Act to make permissive a HAP contract provision that the maximum rent on a unit shall not be less than the initial rent. Because this provision is permissive, and not mandatory, HUD is considering parameters for when its use would be appropriate. Accordingly, this provision is not self-implementing. HUD will finalize its policy on this provision through rulemaking.

6. *Use of PBV in Cooperative Housing and Elevator Buildings.* A new section 8(o)(13)(L) is added by section 2835(a)(1)(F) of HERA to allow PHAs to enter into HAP contracts with respect to units in cooperative housing and in high-rise elevator projects. The authority for units in high-rise elevator projects specifically states it may be exercised without review and approval by HUD. HUD considers section 8(o)(13)(L) to be effective commencing with the date of enactment of HERA, July 30, 2008. Accordingly, this provision is self-implementing. HUD will make any necessary conforming changes to its regulations.

7. *Reviews.* Section 2835(a)(1)(F) of HERA also provides relief from certain review requirements by adding section 8(o)(13)(M) to the 1937 Act. New section 8(o)(13)(M)(i) removes the requirement to conduct a subsidy layering review in the case of a HAP contract for an existing structure or if such a review has been conducted by the applicable state or local agency. This provision is self-implementing for existing housing. The provision, however, is not self-implementing for newly constructed or rehabilitated housing. HUD will be issuing guidance on how such reviews must be conducted for newly constructed or rehabilitated housing.

Section 8(o)(13)(M)(ii) relieves a PHA from undertaking an environmental review for an existing structure, except to the extent such a review is otherwise required by law or regulation. Under 24

CFR part 58, federal environmental reviews are undertaken by a Responsible Entities (usually units of general local governments), not PHAs. In addition, any federally required environmental review is “required by law or regulation,” so there do not appear to be any federally required environmental reviews that would be eliminated by this provision.

*F. Collection of Information on Tenants in Tax Credit Projects*

HERA section 2835(d) adds a new section 36 to the 1937 Act to require state agencies administering LIHTC projects to furnish HUD with information on tenants residing in such projects. This provision is also applicable to project-based assisted housing programs administered by HUD’s Office of Housing. HUD must also establish standards and definitions for the information to be collected. HUD will implement this provision through a notice prepared in accordance with the Paperwork Reduction Act and to be published in the **Federal Register**.

Dated: November 18, 2008.

**Paula O. Blunt,**

*General Deputy Assistant Secretary for Public and Indian Housing.*

[FR Doc. E8-27871 Filed 11-21-08; 8:45 am]

BILLING CODE 4210-67-P

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

[Docket No. FR-5187-N-63]

**Subterranean Termite Treatment Builder’s Certification and Guarantee, and the New Construction Subterranean Termite Soil Treatment Record**

**AGENCY:** Office of the Chief Information Officer, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

The collection of the requested information requires that the sites for HUD insured structures must be free of termite hazards. Builders certify and guarantee that all required treatment for termites are performed and there is no infestation of treated areas for a year. Also, pest control companies are required to provide a record of any soil treatment methods used to prevent subterranean termite infestation. The respondents for this collection are builders, pest control companies, mortgage lenders and home buyers.

**DATES:** *Comments Due Date:* December 24, 2008.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502-0525) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202-395-6974.

**FOR FURTHER INFORMATION CONTACT:** Lillian Deitzer, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Lillian.Deitzer at [Lillian\\_L\\_Deitzer@HUD.gov](mailto:Lillian_L_Deitzer@HUD.gov) or telephone (202) 402-8048. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice

is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**This Notice Also Lists the Following Information**

*Title of Proposal:* Subterranean Termite Treatment Builder’s Certification and Guarantee, and the New Construction subterranean Termite Soil Treatment Record.

*OMB Approval Number:* 2502-0525.

*Form Numbers:* HUD-NPCA-99 and HUD-NPCA-99-B.

*Description of the Need for the Information and its Proposed Use:*

The collection of the requested information requires that the sites for HUD insured structures must be free of termite hazards. Builders certify and guarantee that all required treatment for termites are performed and there is no infestation of treated areas for a year. Also, pest control companies are required to provide a record of any soil treatment methods used to prevent subterranean termite infestation. The respondents for this collection are builders, pest control companies, mortgage lenders and home buyers.

*Frequency of Submission:* On occasion.

	Number of respondents	Annual responses	x	Hours per response	=	Burden hours
Reporting Burden .....	63,123	126,246		0.166		21,019