

April 27, 2007

TO: State Directors  
Rural Development

FROM: Russell T. Davis (*Signed by David Villano*)  
Administrator  
Housing and Community Facilities Programs

SUBJECT: Clarification of Issues for the Rural Development  
Voucher Demonstration Program

This unnumbered letter is to clarify the current policies of the Rural Development Voucher Demonstration Program for the Multi-Family Housing portfolio.

Background

The Rural Development Voucher Demonstration Program for the Multi-Family Housing portfolio was created to offer protection to eligible multifamily housing tenants in properties financed through Rural Development's Section 515 Rural Rental Housing Program who may be subject to economic hardship through prepayment of the Rural Development mortgage. When the owner of such a property pays off the loan prior to the normal maturity date, rents may increase thereby making the housing unaffordable to tenants. The Rural Development Voucher Program applies to any property financed through Section 515 where the mortgage is paid off prior to the maturity date in the promissory note. This includes foreclosed properties. Tenants in foreclosed properties are eligible for a Rural Development Voucher under the same conditions as properties that go through the standard prepayment process. The Rural Development Voucher will help tenants by providing a short-term rental subsidy that will supplement the tenant's rent payment. Low-income tenants in the prepaying property are eligible to receive a voucher that they may use at that property or take to any other rental unit in the United States that passes inspection and where the owner will accept an Rural Development Voucher, with the exception of rental units in subsidized housing like Section 8 and public housing where two housing subsidies would result. The Rural Development Voucher may not be used for the purchase of a home.

EXPIRATION DATE:  
April 30, 2008

FILING INSTRUCTIONS:  
Housing Programs

Some administrative policies of the Rural Development Voucher Demonstration program have changed since the program started and this letter will clarify current program policies and address upcoming changes. The Voucher Guide was last updated in October 2006. We expect a complete revision of the Voucher Guide this summer. Such a revision will incorporate these changes and provide additional explanation. Except for item 13, all of the changes included here are effective immediately.

1. HUD will not be involved with the delivery of this Voucher Program.

References to HUD's possible involvement in the Rural Development Voucher program should be removed from letters that are sent to the owner or tenants, such as the "Sample Letter to Owner about Rural Development Voucher Program," Appendix 2 in the Voucher Guide and "Tenant Letter #1 – Prepayment Request Received," Appendix 3 in the Voucher Guide. These revised letters are available now on the Rural Development Voucher website at the following address:

<https://mfhdemoteam.sc.egov.usda.gov/voucher/default.aspx>.

2. Rent Comparability Study.

The Rent Comparability Study (RCS) should be ordered after incentives are declined. If the property is a foreclosure, the timing is dependent upon whether your state is a judicial or non-judicial state. The procedure for ordering an RCS is as follows:

Ordering a Rent Comparability Study (12-22-06)

The National Office has contracted with the Signal Group to conduct rent comparability studies. Please send an email to Norma Gavin at [norma.gavin@wdc.usda.gov](mailto:norma.gavin@wdc.usda.gov) for each RCS being ordered. The subject line should be: Rent Comp Studies. For consistency, include the following information in the email:

- A) Property name
- B) Address
- C) Unit types and number of units in each type
- D) Unit sizes (sq. ft.)
- E) Property age
- F) Elderly/family/mixed
- G) Garden/elevator
- H) Copies of any recent rent studies (including a recent appraisal if you have one)
- I) Property contact information for the person who will allow access to the property (i.e., representative of the owner or management agent). Provide names, phone numbers and email addresses, if possible.
- J) Rural Development Servicing Official for the Signal Group to contact directly regarding this assignment and who will receive the final product.

When your email is received, it will be forwarded to the Signal Group to start processing. Signal Group will be in contact with the Servicing Office within three (3) weeks of the order. At that time, Signal may ask the Servicing Official questions about appropriate comparables based on the official's knowledge of the area where the project is located. This will assist Signal in completing the study. At the same time you make the request to the National Office, you should notify the owner or management agent that the Signal Group will be contacting them; please stress that access to the property is critical, and that we would appreciate their cooperation and responsiveness. A one-page form letter is available for Rural Development staff to provide to the owner or management agent that

explains why the Rent Comparability Study is being done and what to expect when working with the contractor. This form letter is on the Voucher Demonstration website. The Signal Group will be asking questions about the property and its comparables, and will give each property at least 48 hours' prior notice of site visit. If it is not possible to gain access to the subject property, Signal can still complete an RCS for this property. However, they will need additional property information from the Servicing Office.

The purpose of the RCS is to establish a market rent to determine the voucher amount; it is not intended to establish any rent to be charged in the subject property or where vouchers are being used. Please make clear to the owner or management agent that the Signal Group has been instructed by Rural Development that conclusions and the report are CONFIDENTIAL and can ONLY be shared with Rural Development.

The Signal Group will contact the property contact to set up the site visit and obtain any additional information. Once completed, the Signal Group will provide the Rural Development Servicing Official identified with an electronic copy of the RCS report. Rural Development appraisers are not required to review the RCS report.

### 3. Voucher Determination Summary (VDS).

The Voucher Determination Summary (VDS) determines the amount of the voucher by subtracting the net tenant contribution from the RCS-established rent. This number is the maximum amount of the voucher. The VDS should be completed NO MORE THAN 60 days prior to the potential payoff or foreclosure sale. Rural Development staff must obtain from the Multi-Family Information System (MFIS), Report PRJ2000 "Project Worksheet" to verify the tenants at the property and their net tenant contribution (NTC). Once prepayment has occurred, Rural Development staff must obtain the project worksheet for the month following the prepayment. If needed, update the VDS based on that project worksheet so that all tenants living in the property on the date of prepayment are captured.

If the property is a Section 8/515 or the tenant has a HUD voucher or other assistance, use 30 percent of the tenant's adjusted income divided by 12 months less the utility allowance to achieve the NTC as shown in Ex 4-3 of the Rural Development Voucher Program Guide.

If the NTC is negative, then change it to zero. The voucher amount cannot exceed the RCS rent. If a tenant's NTC exceeds the RCS rent, then the voucher amount is zero.

Only one voucher is permitted per household.

### 4. Eligible Prepayments for Voucher Demonstration Participation.

The types of projects eligible for vouchers have evolved since the beginning of the Program. Vouchers must be offered to all eligible tenants in these situations. Below is a list of the types of prepayments that are eligible for the Rural Development Voucher Program:

- Prepayment in accordance with 7 CFR 3560 subpart N
- Prepayments resulting from Foreclosure or Marshal Sale
- Prepayments resulting from Acceleration
- Debt Settlement/Compromise Offer
- Deed in Lieu of Foreclosure (Voluntary Conveyance)

Tax sales are not considered prepayment. Although money may be received, it is not considered a prepayment of the debt.

5. Tenant Eligibility.

In order to be eligible for a Rural Development Voucher, the tenants who receive vouchers MUST reside at the property at the time of prepayment or foreclosure. If a tenant in a prepaying property is in eviction status on the date of prepayment, the tenant is still eligible for a voucher.

6. Time Limits.

Do not issue vouchers prior to prepayment or foreclosure.

Do not obligate funds substantially in advance of possible voucher usage or in anticipation of lease expirations (i.e., do not track tenants' lease expirations).

The tenant has 10 months from the date of prepayment or foreclosure to request a voucher by submitting a signed Voucher Obligation Form (VOF). This time period will generally allow sufficient time for an interested tenant to decide if they want to move at the end of their lease and start to find a new unit. When the tenant returns the VOF, funds will be obligated and a Voucher sent to the tenant. If the 10-month period passes with no activity by the tenant, no further action by Rural Development staff is necessary. No Rural Development Voucher funds will be obligated after this time.

The tenant has 60 days from the date of voucher issuance to locate a unit and begin using the voucher. Upon request an additional 60 days may be granted. If the tenant is issued a Voucher and does not use it in the maximum 120-day period, and does not receive an additional extension, the obligation should be cancelled by the 150<sup>th</sup> day.

7. Prepayment with Restrictions.

If a borrower prepays with a restrictive-use provision ("restrictions"), tenants are still eligible to receive and use Rural Development Vouchers, even in the restricted property. Tenants who formerly received rental assistance (RA) may not want to use a voucher because their rent will be limited to 30 percent of their income as long as they remain in that property. However, tenants may decide to move and use the voucher in another property.

8. Unit Inspections.

We will no longer require the use the Housing Quality Standards or HQS.

Once the tenant has located a unit, Rural Development will inspect the unit using the current Rural Development Multifamily Housing inspection form. If the tenant remains at the prepaid property or chooses another Rural Development property, the Servicing Official may use the Rural Development State Director Letter concerning unit inspection found in the Rural Development Voucher Program Guide. This letter certifies that the unit has been inspected within the last 12 months and is in decent, safe, and sanitary condition.

9. Housing Assistance Payments.

Earlier guidance required that the term of the Housing Assistance Payments (HAP) Contract and the lease be concurrent for 12 months. This is true for the initial term of the HAP (unless a transfer of the HAP is involved; see below). However, the HAP does not need to be renewed and remains in effect until cancelled or the tenant leaves the property or the tenant no longer receives benefits of the Rural Development Voucher.

If an owner sells or transfers his property while a tenant is there using a voucher, the HAP Contract will transfer to the new owner, but a new contract will have to be executed for the remaining period. This modifies earlier guidance that a HAP contract had to be for a 12-month term.

Once the HAP contract is signed and faxed to DCFO, the payments may begin. *Electronic Funds Transfers (EFT) are required.* No checks will be issued. If the lease and the HAP commence mid-month, then the payment is prorated.

Retroactive payments are not allowed.

In no case and at no time should be the HAP payment amount exceed the amount of the rent charged at the property. When the HAP contract, which includes the rent being charged for the unit, is reviewed by the Servicing Official, the voucher amount should be adjusted, if necessary, before payments start.

10. Vouchers in Foreclosures and Real Estate Owned (REOs); also See Attachment 1. For potential Real Estate Owned (REOs), obtain the RCS; complete and submit the VDS and offer vouchers after the foreclosure sale, whether the project is sold out of the program or remains in the program. If the project is kept in program, the voucher may be used if the tenant does not qualify for RA or no RA is available. If the project is sold out of the program, tenants can use vouchers at the property if the owner agrees to accept the Rural Development Voucher.

Tenants in foreclosed or REO properties have the same time limits to request an obligation and use a voucher as identified in #6 above.

11. Tenants Who Want to Move.

Tenants may move with the Rural Development Voucher if the tenant and the owner mutually agree to break the lease. Tenants will not have to recertify to determine continued eligibility. The other conditions remain in effect: the unit must pass inspection; the tenant and landlord must execute a 12-month lease with the HUD addendum; and Rural Development must execute a HAP contract with the new landlord. Tenants will have to execute a new VOF and funds should be obligated for the balance of the 36-payment term. If the tenant wants to use the Rural Development Voucher in another state, the tenant must advise the Rural Development office in the “issuing” state that they want to move and where they want to go. The issuing Rural Development office should then advise the Rural Development office in the state selected by the tenant.

12. File Management.

Rural Development staff should set up a “Voucher Property File” to maintain the RCS, the VDS, copies of all letters sent to the tenant and the property. If a tenant uses the voucher, then set up a “Voucher Tenant File.” That file should include the signed VOF, the signed voucher, the tenancy approval form, the inspection or State Director’s letter, the executed HAP agreement, and monthly disbursement information, as well as any other related correspondence.

13. Changes Effective July 2007.

Several changes will occur in July 2007 and are outlined below. These include two important policy determinations (1 and 2). We plan to have at least one on-line training session for the field to review these changes and coordinate transitioning some tasks to the contractor:

- a. No tenant recertifications will be required. Once a tenant qualifies as low-income when living in the prepaying property and is eligible to receive a voucher, no subsequent certification of income will be necessary;
- b. New voucher obligations will be for 36 months. For example, if the monthly voucher amount is \$200, then the total obligation is \$7200.
- c. Tenants who have been through the renewal and re-obligation process will not be recertified again. However, when their obligation is exhausted, tenants will need to sign a new VOF and the obligation amount should equal the difference between 36 payments and the amount that has been paid to-date.
- d. Automation of the obligation and de-obligation processes, allowing states to process vouchers through AMAS.
- e. Automated payments through AMAS. Once the initial payment is setup, payments will continue unless terminated or funds depleted.
- f. Landlords will be paid in advance instead of arrears. We believe this is more consistent with other rental assistance programs (although different from our own RA program); it may entice more owners to participate in the Rural Development Voucher program when tenants want to use their Rural Development Voucher in the marketplace. Making this change may result in a one time double payment in order to accommodate the new payment cycle. This "double payment" should be counted as two voucher payments.
- g. Issuance of a revised Voucher Determination Summary Worksheet
- h. Quadel, the voucher contractor, will begin working with Rural Development field staff to deliver and monitor the Rural Development Voucher program.

14. Attachments.

Finally, Attachment 1 outlines the steps for Rural Development Voucher Issuance for prepayment and foreclosure. Attachment 2 is the revised Tenant Letter #3 to be used when prepayment is approved or foreclosure is imminent.

If you have any questions regarding this memorandum, please contact Joan Atkinson of the Multi-Family Housing Portfolio Management Division at (202) 720-1609.

## RURAL DEVELOPMENT VOUCHER ISSUANCE

<b>PREPAYMENT*</b>
Prepayment request received from borrower
Send tenant letter #1
Incentives declined.
Prepayment approved
Send tenant letter #2
Order RCS
Upon receipt of RCS determine voucher amount by completing Voucher Determination Summary (VDS)
Via email forward the VDS to National Office
National Office approves VDS
Hold meeting with Tenants at prepaying property within 30 days of prepayment
Send Tenant Letter #3 with voucher amount and appeal rights; include Voucher Obligation Form. (VOF)
Tenants return signed VOF to Rural Development office
Prepayment occurs
Pull PRJ2000 for month after foreclosure
Revise VDS if needed and forward to NO for final approval
Obligate funds for signed VOFs received
For tenants who have requested a voucher by returning a signed VOF, send tenant letter #4 which includes the voucher, issued for tenant search for 60 days, not to exceed 120 days, the Request for Tenancy Approval Form, the HUD lease addendum, lead paint forms and owner brochure.
Tenant identifies unit and submits request for tenancy, and sample lease.
Rural Development inspects unit and reviews lease
Rural Development approves unit and sample lease
HAP signed with landlord and Rural Development
Fax HAP to DCFO
Rural Development submits the Request for Disbursement form to the Cash Management Branch
Voucher payment to landlord begins
By the 15 <sup>th</sup> of the month, Rural Development submits Request for ACH disbursement-recurring monthly payments

\*Voucher issuance does not include all processes that may be required by 7 CFR 3560 subpart N, Housing Preservation

RURAL DEVELOPMENT VOUCHER ISSUANCE

<b>FORECLOSURE</b>
Acceleration Letter Sent
Send Tenant Letter #1A
Order Appraisal and RCS – Do not order more than 90 days prior to sale or proceedings
Foreclosure proceedings according to state law.
Upon receipt of RCS determine voucher amount by completing Voucher Determination Summary (VDS)
Via email forward the VDS to National Office
National Office approves VDS
Hold meeting with Tenants at prepaying property within 30 days of payoff or foreclosure
Send Tenant Letter #3 with voucher amount and appeal rights; include Voucher Obligation Form. (VOF)
Tenants return signed VOF to Rural Development office
Foreclosure/payoff occurs
Pull PRJ2000 for month after foreclosure
Revise VDS if needed and forward to NO for final approval
Obligate funds for signed VOFs received
For tenants who have requested a voucher by returning a signed VOF, send tenant letter #4 which includes the voucher, issued for tenant search for 60 days, not to exceed 120 days, the Request for Tenancy Approval Form, the HUD lease addendum, lead paint forms and owner brochure.
Tenant identifies unit and submits request for tenancy, and sample lease.
Rural Development inspects unit and reviews lease
Rural Development approves unit and sample lease
HAP signed with landlord and Rural Development
Fax HAP to DCFO
Rural Development submits the Request for Disbursement form to the Cash Management Branch
Voucher payment to landlord begins
By the 15 <sup>th</sup> of the month, Rural Development submits Request for ACH disbursement-recurring monthly payments

**This should be generated by the Rural Development Office and sent Certified Mail**  
**Tenant Letter #3**

Tenant Name  
Tenant Address  
Tenant Address

Re: RURAL DEVELOPMENT VOUCHER INFORMATION –  
ELIGIBILITY AND VOUCHER AMOUNT DETERMINATION

Dear (Tenant Name):

This letter is to advise you that either: 1) USDA Rural Development has approved the mortgage prepayment request of the owner of your apartment complex, or 2) USDA expects to complete foreclosure on this property soon. Foreclosure will mean the USDA loan on the property no longer exists.

**AVAILABILITY OF THE LETTER OF PRIORITY ENTITLEMENT**

If you currently reside in a Rural Development-financed property that is pre-paying its mortgage, or USDA expects to foreclose the mortgage, you are also eligible for a Letter of Priority Entitlement or LOPE letter - which moves you to the top of the waiting list in other Rural Development-financed properties. You have up to 1 (one) year to apply for a LOPE letter. To obtain a list of Rural Development properties where the LOPE letter can be used, please visit the following website:  
[http://rdmfhrentals.sc.egov.usda.gov/RDMFHRentals/select\\_state.jsp](http://rdmfhrentals.sc.egov.usda.gov/RDMFHRentals/select_state.jsp) or call your nearest Rural Development Servicing Office.

**TRANSFER OF RENTAL ASSISTANCE**

If you currently receive Rental Assistance (RA) in the Rural Development property where you live, RA will no longer be available when the owner pays off the mortgage or the foreclosure occurs. However, if you request, the RA currently assigned to you can be transferred to another Rural Development property if you want to move there. You have up to 4 (four) months after the owner pays-off the mortgage to use the RA. You cannot use this RA with a Rural Development voucher but you can use the LOPE letter to get to the top of the waiting list and then use the transferred RA to help you pay the rent. There are some situations where you cannot transfer the RA. For example: If you are going to a property that is already 100 percent RA or if the property is not a Rural Development-financed property.

If you live in the property on the date of actual prepayment, you may also be eligible to receive a Rural Development Voucher to assist you in paying your rent.

## AVAILABILITY OF THE RURAL DEVELOPMENT VOUCHER

The Rural Development Voucher Program was created to offer some protection to eligible multifamily housing tenants of properties such as your complex who may be subject to economic hardship as a result of the loan prepayment because rents may increase. The Rural Development Voucher will help tenants by providing a rental subsidy that will supplement the tenant's rent payment. Eligible tenants will receive a voucher that may be used at any rental unit in the United States that passes Rural Development inspection and where the owner will accept an Rural Development Voucher (with the exception of rental units in subsidized housing like Section 8 and public housing). Low-income tenants who were not previously receiving Rural Development Rental Assistance are eligible to receive an Rural Development voucher. You may use an Rural Development voucher and the LOPE letter described above in any Rural Development-financed property.

**IF THE PREPAYMENT OR FORECLOSURE DOES NOT OCCUR, VOUCHERS WILL NOT BE OFFERED.**

## ELIGIBILITY DETERMINATION

Eligibility to receive a voucher is based on your adjusted income indicated on the Tenant Certification in effect on the date of loan prepayment. Only those tenants who are low-income are eligible to receive a voucher. "Low-income" is defined as an annual adjusted income at or below 80 % of area median income.

The area median income for your area is \$\_\_\_\_\_ and 80% of that figure is \$\_\_\_\_\_.

(Use This Paragraph If You Are Unable To Determine The Adjusted Income of The Tenant).....**We were unable to determine if your adjusted income is at or below 80% of the area median, therefore we cannot determine your eligibility to receive a voucher at this time. If you believe you may be eligible, you may forward your most recent income certification to:**

Insert servicing office address, and contact name.

**Because your adjusted income is (less than) (more than) 80% of the area median income, you (are) (are not) income-eligible to participate in the Rural Development Voucher Program.**

## VOUCHER AMOUNT DETERMINATION

If you are income-eligible to participate in the Rural Development Voucher program, the value of the Rural Development Voucher for which you are eligible has been established at \$\_\_\_\_\_ per month. If this amount is \$0, this is because your tenant contribution at the prepaying property was equal to or greater than the comparable market rent for that unit. See below for information on how this voucher amount was calculated.

The Rural Development Voucher is good for 12 months of payments at this rate per month to the property owner of the housing unit where you choose to live. In order to maintain your income-eligibility for the voucher program, your income must remain below the 80% of area median income limit. To confirm your eligibility, you can check the median family income in your area at [Data Sets - HUD USER - Policy Development and Research's Information Service](#). If your income goes above this amount, you must contact the nearest Rural Development office and have your income recertified. Locations of the Rural Development offices can be found on the Internet at [http://www.rurdev.usda.gov/recd\\_map.html](http://www.rurdev.usda.gov/recd_map.html).

The Amount of your Rural Development Voucher was calculated as follows:

\$\_\_\_\_\_ = Comparable market rent for your unit in the area where you rent at the time of prepayment  
minus \$\_\_\_\_\_ = Net tenant contribution toward rent on date of prepayment  
\$\_\_\_\_\_ = Amount of your Rural Development Voucher

You should know that the amount of the Rural Development voucher cannot exceed the rent for your unit. If you want to use this voucher at another property where the amount of the voucher exceeds the rent, the voucher amount will be reduced to equal the rent.

If you are interested in receiving a Rural Development Voucher, please sign the enclosed "Voucher Obligation Form" on page 2 and return it to the Rural Development Servicing Office identified below. You have 10 months from the date of this letter to return this form to the Rural Development Servicing Office.

For answers to any questions you may have and to express an interest in receiving a Rural Development Voucher, please contact the following:

(OAE/Rural Development Area office contact name, address, phone number)

If you disagree with either the income-eligibility determination or the voucher amount determination, you are entitled to appeal that determination, in accordance with 7 CFR Part 11. Enclosed you will find information related to appeals.

Sincerely,

OAE/Rural Development Area Director  
Enclosure – Appeal Rights; Voucher Obligation Form