
CHAPTER 8. IMPLEMENTATION OF SECTION 120,
MILITARY HOUSING

- 8-1. PURPOSE. This Chapter contains instructions for the implementation of section 120 of the Housing and Urban Development Act of 1970.
- 8-2. BACKGROUND. Section 120 authorizes the Department to give priority to military households for occupancy of housing assisted under the Section 236 and Rent Supplement programs. Such priority is in effect only for Section 236 and Rent Supplement projects located in areas where DOD has determined that there is a substantial need for housing accommodations for military personnel and where HUD Central Office has approved the use of occupancy priority to meet this need. No action is to be taken by field offices in connection with military priority unless a special notice has been received from Central Office to the effect that a set-aside of Section 236/120 contract authority has been established.
- 8-3. ELIGIBLE PROJECTS. Housing projects designated for military occupancy priority under Section 120 must meet all administrative and legal criteria for mortgage insurance under Section 236. In addition, projects may provide rent supplement assistance for eligible applicants. In general, projects for which the military is to receive preference will be new projects specifically developed for this purpose; however, projects in precompletion stages should be considered if the project owner agrees to execute amended agreements with HUD-FHA stipulating military occupancy priority. Military priority may also be established for portions of projects.
- 8-4. ELIGIBLE APPLICANTS. Military personnel who are heads (or spouses of heads) of families on permanent duty orders, and who can reasonably expect to complete at least twelve months occupancy, are eligible. Adjusted family income must be within HUD-FHA established limits. Military income is defined as the sum of basic pay, regular allowances for quarters and subsistence, special allowances in certain areas for housing and cost-of-living, and overseas special allowances, when applicable.
- 8-5. DOD RESPONSIBILITIES. The role of DOD will be to provide HUD Central Office with information on military family housing requirements, including suggesting priorities among military installations. DOD will provide and revise priority lists indicating location and magnitude of need.

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- a. When installations which have been recommended by DOD are approved by HUD, local HUD representatives will consult with local DOD representatives to obtain any necessary details on location, unit size requirements, military family income distributions, and commuting distances for proposed projects.
 - b. When a project is approaching the occupancy stage, local DOD representatives will refer to the project manager those military applicants who appear to be within the income limitations established by the Secretary. A standard DOD Certificate of Referral will be used by DOD local representatives to certify that an applicant is expected to remain in the area for at least twelve months. DOD will forward this Certificate to the project owner or manager for use in compiling the waiting list of military applicants.

8-6. HUD RESPONSIBILITIES AND PROCEDURES.

- a. Project Locality Approval.
 - (1) HUD is responsible for the approval or rejection of project localities recommended by DOD. Approval is contingent upon both immediate marketability among military households and marketability for nonmilitary occupancy, because DOD cannot guarantee a continuing market among military households at any location.
 - (2) Each fiscal year, or more often, when DOD's priority list of proposed locations is transmitted to HUD (Office of Subsidized Housing Programs), the list will be reviewed by the Central Office EMAD staff. Then, taking EMAD's findings into consideration, the comments and recommendations of each Field Office Director with jurisdiction over a DOD proposed location will be requested through the ARA for HPMC. If a Field Office Director recommends rejection of a location, he should document his findings. His comments and recommendations on all the proposed locations should be forwarded to the ARA who will review and then relay them to the Director, Office of Subsidized Housing Programs.

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- (8-6) b. Obtaining Specific Project Proposals.
 - (1) Subsequent to notice that Section 236/120 contract authority has been set-aside for a specific location, a

field office should first examine projects under construction, those committed but not started, and its backlog of proposals, to determine whether a proposal has already been submitted which might meet the requirements for military priority, or which could be revised to meet those requirements. Commuting distance from the military installation(s) (not more than one hour's driving time during rush hour traffic, or such lesser distances as may be mutually established by DOD and local HUD representatives) must also be considered. If an appropriate proposal is found in the office's backlog, the office should contact the project's sponsor to determine interest in agreeing that the project make all or a specified number of units available for military priority.

- (2) If no appropriate projects are on hand, the office should, in an equitable manner, make widely known its interest in receiving specific project proposals to serve the designated installation.

c. Contract Authority. When a project proposal has been selected, the Section 236 authorization for the project will be allocated by the Central Office upon request (by the field office having jurisdiction) pursuant to operating procedures currently in effect for obtaining funding from Central Office set-asides.

- (1) In all instances, the HUD-FHA field office will record the number of units to be available to military families. In these designated cases, it will be necessary to amend the Regulatory Agreement for Limited Distribution Mortgages (FHA Form 3136) and for Nonprofit Mortgages (FHA Form 3135) to add a subparagraph to paragraph 4(d) to read as follows:

A preference over any other families shall be given for _____ units to families of military personnel, otherwise eligible for admission to the project, who are serving on active duty and who present DOD Certificates of Referral to the owner; but if no military applicant is available for a vacant unit,

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- (8-6) the owner may accept an application from a nonmilitary applicant, subject to the preference set forth above. A military preference list of eligible military families shall be maintained by the owner. The Department of

Defense has not assumed responsibility for maintaining a satisfactory level of occupancy as a result of the preference to families of military personnel.

- (2) Any necessary rent supplement assistance will be requested through standard procedures from the Central Office at the time a letter of feasibility is issued.
 - (3) If Central Office allocation of Section 236 contract authority is made for only a portion of an assisted housing project the HUD-FHA Owner agreement for priority of occupancy shall specify the number of units to which such occupancy priority applies.
- d. HUD-FHA Agreements with Owners/Managers. Concurrent with project approval, an agreement must be received from the housing project owner that military personnel will receive occupancy priority. HUD-FHA will require the project owner or manager to maintain a separate waiting list comprised of military applicants referred by the local DOD representatives as the project approaches occupancy. This list is to be kept on a continuing basis.
- (1) Military applicants will be required to submit FHA Form 3131 to project managers (and FHA Form 2501 when applicant also applies for rent supplement payments). In addition, military applicants will be required to execute one-year leases with appropriate provisions for renewal and with standard military transfer clauses. The clause will be added to FHA Form 3133 (Model Form of Lease for Section 236) and FHA Form 2503A (Model Form of Lease for Rent Supplement).

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- (2) Families on this waiting list will have preference over any other waiting list. However, HUD-FHA will include, in its regulatory agreements with owner-managers of assisted housing projects subject to military priority, provisions which will permit housing project owners to rent a vacant unit to an eligible non-military applicant if the military waiting list does not provide the owner with an eligible applicant for rental of the unit.
 - (3) Units occupied by non-military tenants will revert to military preference when vacated by the non-military tenant, unless a similar unit has been designated to bring the number of project units up to the original number subject to military personnel preference.

