

PART I

INTRODUCTION

CHAPTER 1. INTRODUCTION

- 1-1 LEGAL AUTHORITY FOR THE RENTAL REHABILITATION PROGRAM. the Rental Rehabilitation Program (RRP) was authorized by Congress as part of Section 17 of the United States Housing Act of 1937 which was enacted into law in Section 301 of the Housing and Urban-Rural Recovery Act of 1983, Pub. L. No. 98-181, 97 Stat 1153. Section 17 is codified at 42 U.S.C. 1437o. The regulations for the program are codified at 24 CFR Part 511 (Exhibit 1.1)
- 1-2 OBJECTIVES OF THE HANDBOOK: The handbook is designed to fulfill several objectives. These are:
- A. To provide insight into the current interpretation of program regulations.
 - B. To provide techniques and establish a process for implementing the regulations of the program.
 - C. To provide examples to clarify and emphasize program requirements.
 - D. To provide a hands-on resource for new and inexperienced staff as well as a reference guide for all HUD staff and local officials working with the program.
- 1-3 ORGANIZATION OF THE HANDBOOK. The Handbook is divided into the following major parts:
- Part I - Introduction, which includes the introductory information and definitions in this handbook, background information on the program design and philosophy of the program, and information on how to request waivers.
- Part II - Program Administration Guidelines for Grantees, which includes chapters on the submission and approval of the Program Description, State and HUD-Administered Programs for Small Cities, and consortia and grantee grant administration and performance requirements.

Part III - Funds Management and Cash and Management Information System Management, which includes a chapter on funds management including how the funds are allocated by formula as well as how funds are reallocated by Regional

and Field Offices, and a chapter on the Cash and Management Information (C/MI) System and how it is used by grantees and HUD offices.

Part IV - Tenant Assistance and Relocation, which includes chapters on the tenant assistance policy required of all grantees, applicable relocation requirements, and the Section 8 resources which may be available to the program and how they may be used.

Part V - Program Administration Guidelines for HUD Field Offices, which includes chapters on HUD monitoring and close out responsibilities.

Appendix, which includes the required and suggested forms to be used in administering the program and other pertinent references.

1-4 BACKGROUND OF THE RENTAL REHABILITATION PROGRAM

A. The Need For The RRP. In 1980, an examination of various data related to housing patterns in the United States revealed that one-third of all housing in this country was rental housing. Eighty-three percent of that rental housing consisted of projects containing 20 or less units, with 60 percent of all rental units contained in projects of four or less units. Additionally, more than one-third of these units need repairs. The data also evidenced that 41 percent of the nation's rental units are occupied by very low-income households (i.e., those with incomes of 50 percent or less of the local area median income) and 62 percent are lower income (i.e., those with incomes below 80 percent of median.) Other data shows that one-half of the very low-income households pay more than 50 percent of their income for housing. All of the data taken together suggests that a high percentage of lower-income households are renters occupying sub-standard units in relatively small projects. The data further indicated that the very low-income households among this group would require financial assistance if they were to be able to afford rents charged for standard rental units. It was clear to the Department that neither CDBG funded rehabilitation programs, which were used primarily to finance rehabilitation of single family, owner-occupied projects, nor other programs

administered by the Department were significantly addressing the needs of smaller rental projects or targeting financial assistance to the low income tenants of these smaller projects. The Department's

response was to design the Rental Rehabilitation Program.

- B. The Design of the Rental Rehabilitation Program. The national objective of the RRP is to increase the supply of standard rental housing, available and affordable to lower income tenants, in an efficient and cost-effective manner. The RRP is designed to meet this objective while preserving the tenants' freedom to choose where they will live. Three innovative concepts are incorporated into the RRP design: (1) the split subsidy approach which separates production subsidies from tenant rent subsidies; (2) operation of the program in the context of the free market place; and (3) the prohibition against the imposition of State or local rent controls. While the remainder of this paragraph discusses the basic principles underlying the program design, the specific requirements against which grantee compliance is measured are set forth in the regulations at 24 CFR 511, and are explained in the remainder of this Handbook.

1. The Split Subsidy Approach. The design of the program separates the two subsidies available to RRP assisted projects--the RRP production subsidies used to support the rehabilitation of the rental units and the rental subsidies used to assist lower income tenants by making it possible for them to continue living in the rehabilitated project or to move to other standard housing. These rental subsidies are usually provided under HUD's Section 8 certificate and housing voucher programs.

- a. RRP Production Subsidy. The RRP production subsidy is a one-time, front-end subsidy provided to an investor to make rehabilitation economically feasible at market rents. It is the public funding provided to an investor to make up the difference between the cost of rehabilitating the unit and the economic value of the unit to the investor. The economic value of the unit is determined in a free market by supply and demand factors that dictate the maximum rent the unit can

command. Because the prime motive for real estate investment, like alternative investment modes, is a profit on the investment, income from the investment

should be sufficient to pay all operating expenses and debt service, as well as yield a profit to the investor. When rehabilitation is being considered, the projected income should also cover the new debt service required for rehabilitation financing. When after-rehabilitation free market rents will not provide sufficient income to do so, then a RRP production subsidy can be provided to make the rehabilitation financially feasible for the investor.

- b. Rental Subsidy. The rental subsidy, usually provided under HUD's Section 8 certificate or housing voucher programs, generally represents the difference between what the tenant can afford to pay in rent, based on the tenant's income, and the actual free market rent of the unit. Unlike the production subsidies, which are provided to the property owner, rental subsidies are provided for tenants. In the RRP, the tenant is free to use the tenant subsidy to remain in residency in the RRP project, or to move to another standard rental unit of his/her choice, just as any other consumer of rental housing with purchasing power may do. The freedom of housing choice afforded to project tenants through the program sets the RRP apart from other HUD project-based programs which tie the tenant subsidy (and thus the tenant) to the project being assisted. Because the tenants can move and take their rental subsidies with them, the investor should be economically motivated to maintain the project to continue to attract tenants at market rents.
2. The RRP Free Market Context. The RRP is not only designed to operate in the free market place, but its relative success is dependent upon how well free market principles are adhered to by program participants. Because in a free market there are no artificial limits on rents and no financial props to support investors,

owners of rental property must take market risks in order to achieve economic rewards. Under the design of the RRP, with its split subsidy feature, an investor's return on investment is based on market rents, sound project management,

a positive cash flow, tax advantages (although the latter have been sharply reduced by tax reform), and appreciation in the value of the property. The free market context of the RRP design permits the prudent investor to profit from participation in the RRP, provided the investor's rehabilitation investment is planned and carried out carefully.

- a. Market Rents. The market rent for a unit is the rent that the unit can command from unassisted tenants on the open market, given its location and the cost of other comparable units in the area. The market rent of a given unit thus can rise or fall according to prevailing economic conditions, maintenance costs, and the size and condition of the unit in relation to other units in the neighborhood. In the RRP, the market rent is the key variable in determining the amount of RRP subsidy to be provided and in selecting appropriate neighborhoods in which to conduct the program.
- b. Relationship of Market Rents to Fair Market Rents (FMRs). Critical to the successful operation of the RRP is the understanding of the difference between market rents and HUD Section 8 Fair Market Rents (FMRs). As cited above, a market rent is the rent that a unit can command in a free and open marketplace. The HUD Fair Market Rent is the amount the Federal government estimates is needed to rent a modest, standard rental housing unit plus utilities in an area. A FMR is determined by conducting a survey of rents charged for standard units with a certain number of bedrooms in a defined market area. FMRs for the particular area surveyed are set at rent levels representing the 45th percentile of rents for all units with the same number of bedrooms. FMRs are used to calculate rental assistance payments under the Section 8 Existing Housing Certificate

program and the Section 8 housing voucher program (where a FMR is used to set the initial "payment standard"). It is, of course, critical that neighborhoods selected for the RRP have market rents

within the HUD FMRs so that the Section 8 subsidies provided to a RRP project tenant is sufficient to enable the tenant to afford the rehabilitated unit. The RRP, therefore, is not intended to operate successfully in every area of every city. It is also imperative that RRP grantees understand that the Section 8 FMR for a broader market area does not necessarily bear any relationship to the free market rent of a particular unit in a particular neighborhood selected for the RRP. Project underwriting rent determinations must be made based on actual free market rents in the target neighborhood, not Section 8 Fair Market Rents, if the program is to be successful.

3. Prohibition Against Rent Controls. The imposition of State and local rent controls on projects is not permitted in the RRP (except where local, generally applicable rent control ordinances exist and have existed prior to the November 30, 1983 enactment of the authorizing legislation for the program). Many subsidized housing programs have effectively tied the tenant to the unit through a blend of production and rental subsidies and rent limitations over a fixed period of time. Such programs have not only been expensive, they have severely restricted the freedom of housing choice among lower income tenants in need of rental assistance.
 - a. The Cost of Rent Control. The costs resulting from the imposition of project rent controls are far greater than they might appear. For instance, investors are giving up more than a projected rent loss. By agreeing to a bureaucratic overlay controlling their decisions, investors are no longer able to respond freely to changes in maintenance or other costs. Rational investors faced with this situation will either decline participation in rent controlled programs, or insist on a deeper

subsidy that in all probability will be even greater than the value of the rent lost through the rent limitation. Additionally, any time a controlled rent level falls below the true free market rent

level, an investor is no longer subjected to competitive pressures to maintain the real market value of the units. On the contrary, the investor is provided a strong financial incentive to withdraw capital from the project, generally through reducing maintenance expenditures, to maximize the return on investment. In effect, the investor pockets what would be a maintenance expenditure to reimburse the loss represented by the gap between real, free market rent value and the controlled, artificially lower value. Of course, reduced maintenance will lower the real market value of the unit over time. However, it is not usually worthwhile for the tenant to move until the investor has allowed the disinvestment to drop the value so low that it is worth less than the artificially imposed rent level. At this point the tenant may choose to look for another unit, but by that time the purpose for the investment of public funds (i.e., the availability of a quality unit at an affordable rent) has been defeated.

- 1-5 WAIVERS. The HUD Assistant Secretary for Community Planning and Development may waive any requirement of the RRP regulations at 24 CFR 511 or this Handbook not required by law whenever it is determined that undue hardship will result from applying the requirement or where application of the requirement would adversely affect the purposes of the Rental Rehabilitation Program. Waivers shall be in writing, citing the rule and/or Handbook provision to be waived and the authority for the waiver and be supported by documentation of the pertinent facts. Where only a portion of the rule or handbook provision is to be waived, then the waiver should expressly limit itself to that portion. Grantees should address their waiver requests to the appropriate Field Office. Field offices will forward such requests to the Assistant Secretary for Community Planning and Development to the attention of the CPD Field Coordination Unit. This procedure will assist in establishing a central point of contact to coordinate regulatory waivers that are to be published in the Federal Register.

- 1-6 DEFINITIONS. The following are definitions of various terms used in this handbook:

"Administrative Costs" are reasonable and necessary costs, as defined in 24 CFR 511.71 and OMB Circular A-87,

incurred by the grantee itself, or by a unit of general local government pursuant to a written cost-sharing agreement with a State grantee (see 24 CFR 511.71(c)), in carrying out the Rental Rehabilitation Program.

"Affordable Rents" See "Rents Affordable to Lower-Income Families."

"Applicable Surface" means all intact and nonintact interior and exterior painted surfaces of a residential structure.

"Cash and Management Information (C/MI) System" means the Cash and Management Information System for drawdown of Rental Rehabilitation grant amounts and collection of program information described in Section 511.75.

"Certificate" means the document issued by a PHA to a family eligible for participation in the tenant-based Section 8 Certificate Program 24 CFR Part 882.

"Chewable Surface" means all chewable protruding painted surfaces up to five feet from the floor or ground, which are readily accessible to children under 7 years of age, e.g., protruding corners, windowsills and frames, doors and frames, and other protruding woodwork.

"Chief Executive Officer" of a governmental entity means the elected official, or the legally designated official, who has the primary responsibility for the conduct of that entity's governmental affairs. Examples of the "chief executive officer" are: the elected mayor of a municipality; the elected county executive of a county; the chairperson of a county commission or board in a county that has no elected county executive; the official designated under law by the governing body of the unit of general local government; and the Governor of a State.

"City" means a unit of general local government that was classified as a city under Section 102(a)(5) of the Housing and Community Development Act of 1974 for purposes of the Community Development Block Grant (CDBG) Entitlement Program for the fiscal year immediately preceding the fiscal year for which rental rehabilitation grant amounts are made available.

"Commit to specific local project" or "commitment" means: (a) for a project which is privately owned when the commitment is made, a written legally binding agreement between a grantee (or in the case of a State distributing rental rehabilitation grant amounts to units of general local government, a State recipient) and the project

owner, under which the grantee or State recipient agrees to provide rental rehabilitation grant amounts to the owner for an identifiable rehabilitation project that can reasonably be expected to start construction within 90 days of the agreement and in which the owner agrees to start construction within that period; or (b) for a project that is publicly owned when the commitment is made, the Pre-Rehabilitation Report submitted by the grantee under the C/MI System which identifies a specific rehabilitation project that will start rehabilitation within 90 days of HUD's receipt of the Pre-Rehabilitation Report. Under both (a) and (b) of this definition, the date HUD enters into the C/MI System an acceptable Pre-Rehabilitation Report is deemed to be the date of project commitment.

"Completion of Rehabilitation" means all necessary rehabilitation work has been performed and the project in HUD's judgment complies with all applicable requirements of 24 CFR 511 (including the rehabilitation standards adopted under 511.10(e); the final drawdown has been disbursed for the project; for projects that were publicly owned when commitment occurred, the project has been legally transferred to a private owner subject to the owner obligations required under 24 CFR 511.11(d); and a Project Completion Report has been submitted by the grantee or State recipient and processed in the C/MI System, as prescribed by HUD.

"Completed Project" means a project that meets the "Completion of Rehabilitation" definition above.

"Congregate Housing" see "Unit."

"Contract Agent" means any person, privately-controlled nonprofit corporation, or other private entity performing program administrative services on behalf of the grantee.

"County or Urban County Recipient" means a unit of general local government within an urban county-grantee, to which the urban county distributes rental rehabilitation grant amounts and which carries out the program independently (except for C/MI activities), including entering into project agreements with owners in its own name.

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"Defective Paint Surface" means paint on applicable surfaces that is cracking, scaling, chipping, peeling or loose.

"Deposit Account" means an account identified or established in a local financial institution as described in Chapter 11 of this Handbook for the purpose of

receiving deposits of Rental Rehabilitation grant funds on behalf of grantees or State recipients (if authorized by the State grantee to receive deposits).

"Designated Public Agency" means, in the case of grantees other than States, a single purpose unit of local government which is not under the direct administrative control of the Chief Executive Officer of the grantee (such as an independent PHA, a State agency, or a publicly-controlled nonprofit organization, which performs program administrative services on behalf of the grantee. In the case of States, the term includes independent State agencies not under the direct administrative control of the Governor (such as a State PHA or Housing Finance Agency), or publicly-controlled nonprofit corporations, or local public bodies, which perform administrative services on behalf of the grantee. The term does not include State recipients and urban county recipients.

"Displaced Person" means any person (family, individual, business, nonprofit organization or farm) that moves from real property, or moves personal property from real property, permanently and involuntarily as a direct result of rehabilitation, demolition or acquisition for a project assisted under the RRP, as described in 24 CFR 511.14(g).

"Drawdowns" are funds disbursed to the grantee's or State recipient's deposit account upon request by the grantee or State recipient when needed for immediate payment for completed construction work or other eligible project costs. The term also may be used to refer to funds disbursed to the grantee's deposit account for administrative costs.

"Elevated blood lead level or EBL" means the excessive absorption of lead, that is, a confirmed concentration of lead in whole blood of 25 ug/dl (micrograms of lead per deciliter of whole blood) or greater.

"Family" has the same meaning as family, as defined at 24 CFR 812.2.

"Grant Agreement" refers to forms HUD-40015 and HUD-40015.1, which, when executed, represent a formal grant agreement between HUD and the grantee.

"Grantee" means (a) any city or urban county or approved consortium receiving a grant on the basis of the formula contained in subpart D of 24 CFR 511; (b) any State administering a rental rehabilitation program, as provided in 511.51; (c) any city or urban county receiving a rental rehabilitation grant from HUD, as provided in 511.52.

Grantees execute a grant agreement with HUD.

"Housing Voucher" means the document issued by a PHA to a family eligible for participation in the Section 8 Housing Voucher Program under 24 CFR 887.

"HUD" mean the Department of Housing and Urban Development.

"Large Family" means a family of five or more members.

"Lead-based Paint Surface" means a paint surface, whether or not defective, identified as having a lead content greater or equal to 1.0 mg/cm² (milligram per square centimeter) .

The "Letter of Credit Control System (LOCCS)" means the automated HUD system for authorizing and/or initiating disbursements through wire transfers. It will be used to process the RRP grant payment information to Treasury and will automatically update the Program Accounting System (PAS) records with the disbursement data once the drawdown is requested and the payment processed.

"Lower Income Family" means a lower income family, as defined in 24 CFR 813.102.

"Manufactured housing" means a dwelling unit which meets the requirements of 24 CFR 511.11(c)(4).

"Minority Business Enterprise (MBE)" means a business enterprise which is at least 51 percent owned by one or more minority individuals, or in the case of any publicly owned business, at least 51 percent of the voting stock of which is owned by one or more minority individuals, and whose management and daily operations are controlled by one or more of such individuals.

"Minority Property Owner" means a minority person who owns and controls one or more dwelling units. Such persons include blacks, American Indians, or Alaskan Natives, Hispanics, Asians, and Pacific Islanders. The phrase "owns and controls" means that a minority person(s), or a for-profit business or non-profit organization controlled by a minority person(s), possesses at least 51 percent of

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the ownership of the dwelling unit(s) and controls its daily management and operation.

"MSA" means Metropolitan Statistical Area, as defined by the U.S. Bureau of Census.

"Obligation of Funds" occurs with respect to RRP grants when an authorized HUD official signs the Funding Approval Grant Agreement and notifies the grantee in writing of its grant approval for any fiscal year.

"Owner" means one or more individuals, corporations, partnerships, or other privately-controlled legal entities that hold valid legal title to the property to be rehabilitated.

"Payee" means any person/entity entitled to receive payments of RRP monies on behalf of the project owner from a grantee or State recipient (usually a contractor who has performed work), or in the case of administrative costs, the person/entity entitled to payment of such costs.

"Program Account" means the computerized information which will be maintained in the C/MI System on all funds available for each grantee or State recipient by fiscal year.

"Program Accounting System (PAS)" means the automated HUD accounting system which maintains the accounting data by grant number and produces accounting and management information reports.

"Program Income" has the meaning set forth in 24 CFR 511.76(b).

"Project" means an entire building (including a manufactured housing unit) or two or more contiguous buildings under common ownership and management, to be rehabilitated with a rental rehabilitation grant, under a commitment by the owner, as a single undertaking under this part.

"Project Agreement" means the legally binding agreement between the project owner and the grantee or State recipient referred to in the foregoing definition of "Commit to a specific local project."

"Project File" means the computerized information which will be maintained in the C/MI System for every project assisted by a grantee and, in the case of a State

administering programs through State recipients, the State recipient of funds.

"Project Set-Ups" are calls made by the grantee or State recipient to the toll-free C/MI numbers to establish a project just prior to commitment. The set-up call will earmark funds for a particular project, but not actually

make them available.

"Public Housing Agency (PHA)" means any State, county, municipality of other government entity or public body (or agency or instrumentality thereof) that is authorized to engage in or assist in the development or operation of housing for lower income families.

"Racial and Ethnic Group Definitions." Below are definitions of the racial and ethnic groups used in connection with the RRP. The category which most closely reflects an individual's recognition in his/her community should be used for purposes of reporting on a person of mixed racial and/or ethnic origins.

1. "White." A person having origins in any of the original peoples of Europe, North Africa, or the Middle East, but not of Hispanic origin.
2. "Black." A person having origins in any of the black racial groups of Africa, but not of Hispanic origin.
3. "American Indian or Alaskan Native." A person having origins in any of the original peoples of North America, and who maintains cultural identifications through tribal affiliations or community recognition.
4. "Hispanic." A person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
5. "Asian or Pacific Islander." A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. For example, this area would include China, Indian, Japan, Korea, the Philippine Islands, and Samoa.

"RRP" means the Rental Rehabilitation Program.

"Rents affordable to lower income families" means that the sum of the utility allowance and the rent payable monthly to the owner with respect to a unit is at or below the

applicable fair market rent published under 24 CFR Part 888 for the Section 8 Existing Housing Program (24 CFR Part 882) or at or below such higher maximum Gross Rent as approved by HUD for units of a given size or type under 24 CFR 882.106(a)(3). In the case of cooperative or mutual housing, rent means the occupancy charges under the occupancy agreement between the members and the

cooperative.

"Single Room Occupancy (SRO) Housing" see "unit."

"State" includes any of the 50 States and the Commonwealth of Puerto Rico.

"State Recipient" means any unit of general local government to which a State distributes rental rehabilitation grant amounts, as provided in 24 CFR 511.51(a)(2) and (3). A State recipient generally carries out the program independently including entering into agreements with owners in its own name.

"Unit" or "dwelling unit" means a residential space that qualifies under the laws of the State and locality and under this part as a place of permanent habitation or abode for a family, including an apartment or house that contains a living room, kitchen area, sleeping area and bathroom(s) or such other definition as may be proposed by a grantee and approved by HUD under this part. The HUD Field Office may approve congregate units meeting the requirements of 24 CFR 882.109(m) or single room occupancy units meeting the requirements of 24 CFR 882.109(p) as zero bedroom units for purposes of the RRP.

"Unit of General Local Government" means any city, county, town, township, parish, village, or other general purpose political subdivision of a State, and the District of Columbia.

"Urban County" means a county that was classified as an urban county under Section 102(a)(6) of the Housing and Community Development Act of 1974 for the fiscal year immediately preceding the fiscal year for which rental rehabilitation grant amounts are made available.

"Utility Allowance" means the amount determined by a PHA under 24 CFR Part 882 and 887 for the cost of utilities (except telephones) and other housing services that is not included in the rent payable to the owner, but is the responsibility of the family occupying the unit.

"Very Low-Income Family" means a very low-income family, as defined in 24 CFR 813.102.

"Voucher (or Certificate) Payment" means the housing assistance payable on behalf of eligible families participating in the housing voucher (or Certificate) program authorized under 24 CFR 882 or 887, as applicable.

"Women's Business Enterprise (WBE)-" is a business that is at least 51 percent owned by a woman or women who also control and operate it. "Control" means exercising the power to make policy decisions. "Operate" means being actively involved in the day to day management.