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**DEPARTMENT OF AGRICULTURE**

**Rural Housing Service**

**Notice of Funding Availability: Rural Development Voucher Program**

**AGENCY:** Rural Housing Service, USDA.

**ACTION:** Notice of Rural Development Voucher Program Availability

**SUMMARY:** The U.S. Department of Agriculture (USDA) in Fiscal Year 2006 established a demonstration Rural Development Voucher Program, as authorized under Section 542 of the Housing Act of 1949 as amended, (without regard to Section 542(b)). This Notice informs the public that funding is available for the Rural Development Voucher Program. The notice also sets forth the general policies and procedures for use of these vouchers for Fiscal Year 2012. Pursuant to the requirements in the Consolidated and Further Continuing Appropriations Act, 2012, Public Law 112-55 (November 18, 2011), Rural Development Vouchers are only available to low income tenants of Rural Development-financed multifamily properties where the Section 515 loan has been prepaid, either through prepayment or a foreclosure action, prior to the loan's maturity date and after September 30, 2005.

**DATE:** [Insert date of publication in the Federal Register].

**FOR FURTHER INFORMATION CONTACT:** Stephanie B.M. White, Director, Multi-Family Housing Portfolio Management Division, Rural Development, U.S. Department of Agriculture, 1400 Independence Avenue, S.W., STOP 0782, Washington, D.C. 20250-0782, telephone (202) 720-1615. Persons with hearing or speech impairments may access this number via TDD by calling the toll-free Federal Information Relay Service at 800-877-8339.

## SUPPLEMENTARY INFORMATION:

### **Background**

The Consolidated and Further Continuing Appropriations Act, 2012 (Pub. L. 112-55, November 18, 2011) provided that the Secretary of the USDA shall carry out the Rural Development Voucher program as follows:

That of the funds made available under this heading, ***\$11,000,000*** shall be available for rural housing vouchers to any low-income household (including those not receiving Rental Assistance) residing in a property financed with a Section 515 loan which has been prepaid after September 30, 2005: *Provided further*, that the amount of such voucher shall be the difference between comparable market rent for the Section 515 unit and the tenant paid rent for such unit: *Provided further*, That funds made available for such vouchers shall be subject to the availability of annual appropriations: *Provided further*, that the Secretary shall, to the maximum extent practicable, administer such vouchers with current regulations and administrative guidance applicable to section 8 housing vouchers administered by the Secretary of the Department of Housing and Urban Development (HUD).

This notice outlines the process for providing voucher assistance to the eligible impacted families when an owner prepays a Section 515 loan or USDA action results in a foreclosure after September 30, 2005.

### **Design Features of the Rural Development Voucher Program**

This section sets forth the design features of the Rural Development Voucher Program, including the eligibility of families, the inspection of the units, and the calculation of the subsidy amount.

Rural Development Vouchers under this part are administered by the Rural Housing Service; an Agency under the Rural Development mission area, in accordance with requirements set forth in this Notice and further explained in, “The Rural Development Voucher Program Guide,” which can be obtained by contacting any Rural Development office. Contact information for Rural Development offices can be found at <http://offices.sc.egov.usda.gov/locator/app>. These requirements are generally based on the housing choice voucher program regulations of HUD set forth at 24 CFR part 982, unless otherwise noted by this Notice.

The Rural Development Voucher Program is intended to offer protection to eligible multifamily housing tenants in properties financed through Rural Development’s Section 515 Rural Rental Housing Program (515 property) who may be subject to economic hardship through prepayment of the Rural Development mortgage. When the owner of a 515 property pays off the loan prior to the loan’s maturity date (either through prepayment or foreclosure action), the Rural Development affordable housing requirements and rental assistance subsidies generally cease to exist. Rents may increase, thereby making the housing unaffordable to tenants. When a prepayment occurs, whether or not the rent increases, the tenant may be responsible for the full payment of rent. The Rural Development Voucher Program applies to any 515 property where the mortgage is paid off prior to the maturity date in the promissory note and the payment occurs after September 30, 2005. 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 an annual rental subsidy, renewable on the terms and conditions set forth herein and subject to the availability of funds, that will supplement the tenant’s rent payment. This program enables a tenant to make an informed decision about remaining in the property, moving to a new property, or obtaining other financial housing assistance. Low-income tenants in the prepaying

property are eligible to receive a voucher to use at their current rental property, or to take to any other rental unit in the United States and its territories.

There are some general limitations on the use of a voucher:

- 1) The rental unit must pass a Rural Development health and safety inspection, and the owner must be willing to accept a Rural Development Voucher;
- 2) Also, Rural Development Vouchers cannot be used for units in subsidized housing like Section 8 and public housing where two housing subsidies would result. The Rural Development Voucher may be used for rental units in other properties financed by Rural Development, but it will not be used in combination with the Rural Development Rental Assistance program.
- 3) The Rural Development Voucher may not be used to purchase a home.

#### 1. Family Eligibility.

In order to be eligible for the Rural Development Voucher under this Notice, a family must:

- (a) Be residing in the Section 515 project on the date of the prepayment of the Section 515 loan or upon foreclosure by Rural Development;
- (b) The date of the prepayment or foreclosure must be after September 30, 2005;
- (c) As required by Section 214 of the Housing and Community Development Act of 1980 [42 U.S.C. § 1436a] the primary tenant and co-tenant, if applicable, must be a United States citizen, United States non-citizen national or qualified alien.

1) For each family member who contends that he or she is a U.S. citizen or a noncitizen with eligible immigration status, the family must submit to Rural Development a written declaration, signed under penalty of perjury, by which the family member declares whether he or she is a U.S. citizen or a noncitizen with eligible immigration status:

- (i) For each adult, the declaration must be signed by the adult; and

(ii) For each child, the declaration must be signed by an adult residing in the assisted dwelling unit who is responsible for the child.

2) Each family member, regardless of age, must submit the following evidence to the responsible entity:

(i) For citizens, the evidence consists of a signed declaration of U.S. citizenship. Rural Development may request verification of the declaration by requiring presentation of a United States passport, social security card, or other appropriate documentation;

(ii) For noncitizens who are 62 years of age or older, the evidence consists of:

(A) A signed declaration of eligible immigration status; and

(B) Proof of age document; and

(iii) For all other noncitizens, the evidence consists of:

(A) A signed declaration of eligible immigration status;

(B) Alien registration documentation or other proof of immigration registration from the United States Citizenship and Immigration Services (USCIS) that contains the individual's alien admission number or alien file number; and

(C) A signed verification consent form, which provides that evidence of eligible immigration status may be released to Rural Development and USCIS for purposes of verifying the immigration status of the individual. Rural Development shall provide a reasonable opportunity, not to exceed 30 days, to submit evidence indicating a satisfactory immigration status, or to appeal to the Immigration and Naturalization Service the verification determination of the Immigration and Naturalization Service; and;

(d) The family must be a low-income family on the date of the prepayment or foreclosure. A low-income family is a family whose annual income does not exceed 80 percent of the family median income for the area as defined by HUD. HUD's definition of median income can be found at:

<http://www.huduser.org/portal/datasets/il/il11/index.html>

During the prepayment or foreclosure process, Rural Development will evaluate every tenant family to determine if it is low income. If Rural Development determines a family

is low-income, immediately following the foreclosure or prepayment Rural Development will send the primary tenant a letter offering the family a voucher and will enclose a Voucher Obligation Request Form and a citizenship declaration form. If the family wants to participate in the Rural Development Voucher Program, the tenant has 10 months from the date of prepayment or foreclosure to return the Voucher Obligation Request Form and the citizenship declaration to the local Rural Development office. If Rural Development determines that the tenant is ineligible, Rural Development will provide administrative appeal rights pursuant to 7 CFR part 11.

## 2. Obtaining a Voucher.

Rural Development will monitor the prepayment request process or foreclosure process, as applicable. As part of prepayment or foreclosure Rural Development will obtain a rent comparability study for the property ninety days prior to the date of prepayment or foreclosure. The rent comparability study will be used to calculate the amount of voucher each tenant is entitled to receive. All tenants will be notified if they are eligible and the amount of the voucher within 90 days following the date of prepayment or foreclosure. The tenant notice will include a description of the Rural Development Voucher Program, a Voucher Obligation Request Form, and letter from Rural Development offering the tenant participation in Rural Development Voucher Program. The tenant has 10 months from the date of prepayment or foreclosure to return the Voucher Obligation Request Form and the signed citizenship declaration. Failure to submit the Voucher Obligation Request Form and the signed citizenship declaration within the required timeframes will terminate the tenant's the voucher. A tenant's failure to respond within the required timeframes is not appealable. Once the primary tenant returns the Voucher Obligation Request Form and the citizenship declaration to Rural Development, a voucher will be issued within 30 days. All information necessary for a housing search, explanations of unit acceptability, and Rural Development contact information will be provided by Rural Development to the tenant at the time the Voucher Obligation Form and citizenship declaration is received.

The family receiving a Rural Development Voucher has an initial period of 60 calendar days from issuance of the voucher to find a housing unit. At its discretion, Rural Development may grant one or more extensions of the initial period for up to an additional 60 days. Generally the maximum voucher period for any family participating in the Rural Development Voucher Program is 120 days. Only if the family needs and requests an extension of the initial period as a reasonable accommodation to make the program accessible to a disabled family member, Rural Development will extend the voucher search period beyond the 120 days. If the Rural Development Voucher remains unused after a period of 150 days from original issuance, the Rural Development Voucher will become void, any funding will be cancelled, and the tenant will no longer be eligible to receive a Rural Development Voucher.

3. Initial Lease Term.

The initial lease term for the housing unit where the family wishes to use the Rural Development Voucher must be for one year.

4. Inspection of Units and Unit Approval.

Once the family finds a housing unit, Rural Development will inspect and determine if the housing standard is acceptable within 30 days of Rural Development's receipt of the HUD Form 52517 "Request for Tenancy Approval Housing Choice Voucher Program" found at <http://www.hud.gov/offices/adm/hudclips/forms/files/52517.pdf> and the Disclosure of Information on Lead-Based Paint Hazards. The inspection standards currently in effect for the Rural Development Section 515 Multi-Family Housing Program apply to the Rural Development Voucher Program. Rural Development must inspect the unit and ensure that the unit meets the housing inspection standards set forth at 7 CFR 3560.103. Under no circumstances may Rural Development make voucher rental payments for any period of time prior to the date that Rural Development physically inspects the unit and determines the unit meets the housing inspection standards. In the case of properties financed by Rural Development under the Section

515 program, Rural Development may accept the results of physical inspections performed no more than one year prior to the date of receipt by Rural Development of Form HUD 52517, in order to make determinations on acceptable housing standards. Before approving a family's assisted tenancy or executing a Housing Assistance Payments contract, Rural Development must determine that the following conditions are met: (1) the unit has been inspected by Rural Development and passes the housing standards inspection or has otherwise been found acceptable as noted previously; and (2) the lease includes the HUD Tenancy Addendum. A copy of the HUD Tenancy Addendum will be provided by Rural Development when the tenant is informed he/she is eligible for a voucher.

Once the conditions in the above paragraph are met, Rural Development will approve the unit for leasing. Rural Development will then execute with the owner a Housing Assistance Payments (HAP) contract, Form HUD-52641. The HAP contract must be executed before Rural Development Voucher payments can be made. Rural Development will use its best efforts to execute the HAP contract on behalf of the family before the beginning of the lease term. In the event that this does not occur, the HAP contract may be executed up to 60 calendar days after the beginning of the lease term. If the HAP contract is executed during this 60-day period, Rural Development will pay retroactive housing assistance payments to cover the portion of the approved lease term before execution of the HAP contract. Any HAP contract executed after the 60-day period is untimely, and Rural Development will not pay any housing assistance payment to the owner for that period. In establishing the effective date of the voucher HAP contracts, Rural Development may not execute a HAP contract that is effective prior to the Section 515 loan prepayment.

#### 5. Subsidy Calculations for Rural Development Vouchers.

As stated earlier, if eligible, the tenant will be notified of the maximum voucher amount within 90 days following prepayment or foreclosure. The maximum voucher amount for the Rural Development Voucher Program is the difference between the comparable

market rent for the family's former Section 515 unit and the tenant's rent contribution on the date of the prepayment. The voucher amount will be based on the comparable market rent; the voucher amount will never exceed the comparable market rent at the time of prepayment for the tenant's unit if the tenant chooses to stay in-place. Also, in no event may the Rural Development Voucher payment exceed the actual tenant lease rent. The amount of the voucher does not change either over time or if the tenant chooses to move to a more expensive location.

#### 6. Mobility and Portability of Rural Development Vouchers.

An eligible family that is issued a Rural Development Voucher may elect to use the assistance in the same project or may choose to move to another location. The Rural Development Voucher may be used at the prepaid property or any other rental unit in the United States and its territories that passes Rural Development physical inspection standards, and where the owner will accept a Rural Development Voucher and execute a Form HUD 52641. Tenants and landlords must inform Rural Development if the tenant plans to move during the HAP agreement term, even to a new unit in the same complex. All moves (within a complex or to another complex) require a new obligation, a new inspection and a new HAP agreement. In addition, HUD Section 8 and federally assisted public housing is excluded from the Rural Development Voucher Program because these units are already federally subsidized. Tenants with a Rural Development Voucher would have to give up the Rural Development Voucher to accept the assistance at those properties. The Rural Development Voucher may be used in other properties financed by Rural Development, but it cannot be used in combination with the Rural Development Rental Assistance program. Tenants with a Rural Development Voucher that apply for housing in a Rural Development-financed property must choose between using the voucher or Rental Assistance. If the tenant relinquishes the Rural Development Voucher in favor of Rental Assistance, the tenant is not eligible to receive another Rural Development Voucher.

#### 7. Term of Funding and Conditions for Renewal for Rural Development Vouchers.

The Rural Development Voucher Program provides voucher assistance for 12 monthly payments. The voucher is issued to the household in the name of the primary tenant, as the voucher holder. The voucher is not transferable from the voucher holder to any other household member except in the case of the voucher holder's death or involuntary household separation such as the incarceration of the voucher holder or transfer of the voucher holder to an assisted living or nursing home facility. Upon receiving documentation of such cases, the voucher may be transferred at the Agency's discretion to another tenant on the voucher holder's lease.

The voucher is renewable subject to the availability of appropriations to the USDA. In order to renew a voucher, a tenant must return a signed Voucher Obligation Form which will be sent to the tenant within 60-90 days before the current voucher expires. If the voucher holder fails to return the renewal Voucher Obligation Form before the current voucher funding expires, the voucher will be terminated.

In order to ensure continued eligibility to use the Rural Development Voucher, at the time they apply for renewal of the voucher, tenants must certify that the current family income does not exceed 80 percent of family median income. Rural Development will advise the tenant of the maximum income level when the renewal Voucher Obligation Form is sent.

Renewal requests will have no preference and will be processed as a new application as described in this Notice.

#### 8. Non-Discrimination Statement.

“The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, (including gender identity and expression) marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal,

or because all or a part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille), large print, audio tape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

To file a complaint of discrimination write to USDA, Assistant Secretary for Civil Rights, Office of the Assistance Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, D.C. 20250-9410 or call toll-free at (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 733-8642 (English Federal relay) or (800) 845-6136 (Spanish Federal relay). USDA is an equal opportunity provider, and employer.”

#### 9. Paperwork Reduction Act

The information collection requirements contained in this document are those of the Housing Choice Voucher Program, which have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 USC 3501-3520) and assigned OMB control number 2577-0169. 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 control number.

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TAMMYE TREVIÑO  
Administrator  
Rural Housing Service

January 16, 2012\_  
DATE

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