

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5 and 266

[Docket No. FR-4321-F-07]

RIN 2501-AC49

Uniform Financial Reporting Standards for HUD Housing Programs; Revised Report Filing Date

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends HUD's regulations on Uniform Financial Reporting Standards to provide for certain entities subject to these standards an annual financial report filing date that is no later than 90 days after the end of the entity's fiscal year. This amendment provides these entities with an additional 30 days to prepare and submit their annual financial reports. This rule also makes certain technical corrections to these regulations.

EFFECTIVE DATE: April 26, 2000.

FOR FURTHER INFORMATION CONTACT: For further information contact Beverly Miller, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708-1320 (this is not a toll free number). Persons with hearing or speech impairments may access that number via TTY by calling the Federal Information Relay Service at 1-800 877-8399.

SUPPLEMENTARY INFORMATION: HUD's Uniform Financial Reporting Standards regulations, codified at 24 CFR part 5, subpart H (issued by final rule on September 1, 1998 at 63 FR 46582), establish uniform annual financial reporting standards for HUD's Public Housing, Section 8 housing, and multifamily insured housing programs. The regulations provide that the financial information required to be submitted to HUD on an annual basis under these programs must be submitted electronically and prepared in accordance with generally accepted accounting principles (GAAP).

The move to uniform financial reporting standards in HUD programs was part of Secretary Cuomo's HUD 2020 Management Reform Plan. The requirement for electronic submission of the financial report responds to the Vice President's call to all federal agencies to expand the use of new technologies and telecommunications to create an electronic government (September 7,

1993, Report of the Vice President's National Performance Review, pp. 113-117, Ref. 2).

Since issuance of the September 1, 1998 final rule, HUD believes that the transition to electronic reporting of financial information, using uniform accounting principles is proceeding well. HUD has worked closely with the entities subject to these standards (covered entities) to assist them in becoming familiar with GAAP and reporting information electronically. Additionally, given the introduction of a new uniform and electronic financial reporting system, HUD has been sensitive to transition difficulties and HAS provided additional time and assistance where additional time and assistance was needed. For example, in January 1999, at the request of covered entities for more time to file their first financial reports, HUD changed the filing due date for the first financial report from April 30, 1999, to June 30, 1999 (see final rule issued on January 11, 1999 at 64 FR 1504). In June 1999, HUD again responded to a request by entities for additional time to submit first financial reports under the Uniform Financial Reporting Standards (see final rule issued on June 24, 1999 at 64 FR 33755).

With a little over a year's experience with this new reporting system, HUD has determined that for certain entities the annual financial report due date should be changed from 60 days after the end of the entity's fiscal year to 90 days after fiscal year end. These entities are owners of housing assisted under any Section 8 project-based housing assistance payments program, as described in 24 CFR 801.1(a)(3), and owners of certain multifamily projects receiving direct or indirect assistance from HUD, or with mortgages insured, coinsured or held by HUD under the programs listed in 24 CFR 801.1(a)(4). Experience to date has shown that 90 days after fiscal year end is a more reasonable period of time for these owners to prepare and submit their financial reports to HUD.

Public housing agencies and owners assisted under section 8 project-based assistance are also covered by the Uniform Financial Reporting Standards regulations in 24 CFR part 5, subpart H (see 24 CFR 801.1(a)(1), (2) and (3)). This rule does not revise the reporting due date for these entities. HUD recently amended the Public Housing Assessment System regulations on January 11, 2000 (65 FR 1712). The PHAS regulations are applicable to public housing agencies (PHAs) and adopt the uniform financial reporting requirements in 24 CFR part 5, subpart

H. Although the PHAs provides some additional time without penalties for PHAs to submit their fiscal year end financial reports, the PHAS did not change the reporting due date for PHAs. In accordance with 902.33, PHAs must submit their financial reports no later than two months after the end of the PHA's fiscal year end. (See 24 CFR 902.33 of PHAS Amendments final rule at 65 FR 1744.)

Therefore, the revised due date is only applicable to those multifamily housing entities listed in 24 CFR 5.801(a)(4). In addition to revising the reporting due for multifamily housing covered entities, HUD is removing the provisions in 24 CFR 5.801(c) that were applicable only to the first year reports. Those reports have been submitted and the regulatory language is no longer applicable.

This rule makes three technical corrections in addition to the amendments made to § 5.801, discussed above. HUD is removing from the list of multifamily programs subject to the Uniform Financial Reporting Standards, the reference to HUD's Housing Finance Agency Risk Sharing Program. This rule was inadvertently included in these regulations, and these regulations are not applicable to this program. The regulations for the Housing Finance Agency Risk Sharing Program in 24 CFR part 266 are corrected to remove the cross reference to the part 5, subpart H regulations. The cross reference is found in § 266.505(b). Also, HUD's rule implementing OMB Circular A-133 (Administrative Requirements for Grantees to Reflect the Single Audit Act Amendments of 1996), published November 18, 1997 (62 FR 61616) removed parts 44 and 45 of HUD's regulations. (These regulations addressed, respectively, Non-Federal Audit Requirements for State and Local Governments, and Non-Federal Audit Requirements for Institutions of Higher Learning). This rule also will remove the cross-reference to part 44 in § 266.510(c). The applicable cross reference to be made concerning non-federal audits is now found in 24 CFR 85.26.

Findings and Certifications

Justification for Final Rulemaking

In general, the Department publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking at 24 CFR part 10. Part 10, however, does provide for exceptions from that general rule where the Department finds good cause to omit advance notice and public participation. The good cause

requirement is satisfied when the prior public procedure is “impracticable, unnecessary, or contrary to the public interest” (24 CFR 10.1). The Department finds that good cause exists to publish this final rule for effect without first soliciting public comment, in that prior public procedure is unnecessary. Public procedure is unnecessary entities subject to HUD’s regulations in 24 CFR part 5, subpart H, requested the change in the report filing date, which this rule provides, and seeks expeditious implementation of this change. The regulatory amendment made by this rule, therefore, alleviates a burden for these entities. In addition to extending the reporting due date, the rule makes three technical corrections. No policies or standards are changed by this rulemaking.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this final rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule is limited to changing the reporting filing date owners of multifamily housing who are subject to HUD’s Uniform Financial Reporting Standards. Although this change alleviates a burdensome requirement for these entities, which include small entities, the rule does not result either adversely or beneficially in any significant economic impact on a substantial number of small entities.

Environmental Impact

This final rule is exempt from the environmental review procedures under HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) because of the exemption under § 50.19(c)(1). This final rule only amends the financial reporting deadline of existing regulations.

Executive Order 13132, Federalism

This final rule does not have federalism implications and does not impose substantial direct compliance

costs on State and local governments or preempt State law within the meaning of Executive Order 13132 (entitled “Federalism”).

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers for the programs that would be affected by this rule are:

- 14.126—Mortgage—Insurance—Cooperative Projects (Section 213)
- 14.129—Mortgage—Insurance—Nursing Homes, Intermediate Care Facilities, Board and Care Homes and Assisted Living Facilities (Section 232)
- 14.134—Mortgage—Insurance—Rental Housing (Section 207)
- 14.135—Mortgage—Insurance—Rental and Cooperative Housing for Moderate Income Families and Elderly, Market Rate Interest (Sections 221(d)(3) and (4))
- 14.138—Mortgage—Insurance—Rental Housing for Elderly (Section 231)
- 14.139—Mortgage—Insurance—Rental Housing in Urban Areas (Section 220 Multifamily)
- 14.157—Supportive—Housing for the Elderly (Section 202)
- 14.181—Supportive—Housing for Persons with Disabilities (Section 811)
- 14.188—Housing—Finance Agency (HFA) Risk Sharing Pilot Program (Section 542(c))
- 14.850—Public Housing
- 14.851—Low Income Housing—Homeownership Opportunities for Low Income Families (Turnkey III)
- 14.852—Public Housing—Comprehensive Improvement Assistance Program
- 14.855—Section 8 Rental Voucher Program
- 14.856—Lower Income Housing Assistance Program—Section 8 Moderate Rehabilitation
- 14.857—Section 8 Rental Certificate Program
- 14.859—Public Housing—Comprehensive Grant Program

List of Subjects

24 CFR Part 5

Administrative practice and procedure, Aged, Claims, Drug abuse,

Drug traffic control, Grant programs—housing and community development, Grant programs—Indians, Individuals with disabilities, Loan programs—housing and community development, Low-and moderate-income housing, Mortgage insurance, Pets, Public housing, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 266

Aged, Fair housing, Intergovernmental relations, Low-and moderate-income housing, Mortgage insurance, Risk-sharing, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, title 24 of the CFR is amended as follows:

PART 5—GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS

1. The authority citation for 24 CFR part 5 continues to read as follows:

Authority: 42 U.S.C. 3535(d), unless otherwise noted.

2. In § 5.801, paragraph (a)(4)(xiv) is removed and paragraph (c) is revised to read as follows:

§ 5.801 Uniform financial reporting standards.

* * * * *

(c) *Annual financial report filing dates.* (1) For entities listed in paragraphs (a)(1) and (2) of this section, the financial information to be submitted to HUD in accordance with paragraph (b) of this section, must be submitted to HUD annually, no later than 60 days after the end of the fiscal year of the reporting period, and as otherwise provided by law (for public housing agencies, see also 24 CFR 903.33).

(2) For entities listed in paragraphs (a)(3) and (4) of this section, the financial information to be submitted to HUD in accordance with paragraph (b) of this section, must be submitted to HUD annually, no later than 90 days after the end of the fiscal year of the reporting period, and as otherwise provided by law.

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**PART 266—HOUSING FINANCE
AGENCY RISK-SHARING PROGRAM
FOR INSURED AFFORDABLE
MULTIFAMILY PROJECT LOANS**

3. The authority citation for 24 CFR part 266 continues to read as follows:
Authority: 12 U.S.C. 1707, 42 U.S.C. 3535(d).

4. Paragraph (b)(7) of § 266.505 is revised to read as follows;

§ 266.505 Regulatory agreement requirements.

* * * * *
(b) * * *
(1) * * *
* * * * *

(7) Maintain complete books and records established solely for the project.
* * * * *

5. Paragraph (c) of § 266.510 is revised to read as follows;

§ 266.510 HFA Responsibilities.

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(c) *HFA's annual financial statement.*
The HFA must provide HUD with annual audited financial statement in accordance with the requirements of 24 CFR part 85.26.

Dated: March 20, 2000.
William C. Apgar,
Assistant Secretary for Housing-Federal Housing Commissioner.
[FR Doc. 00-7366 Filed 3-24-00; 8:45 am]
BILLING CODE 4210-27-P