

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5 and 92

[Docket No. FR-5351-F-03]

RIN 2501-AD48

Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs: Implementation of the Enterprise Income Verification System; Withdrawal of Rescinded Regulatory Amendments

AGENCY: Department of Housing and Urban Development, HUD.

ACTION: Final rule; withdrawal of rescinded regulatory amendments.

SUMMARY: On December 29, 2009, HUD published a final rule to require the use of the Enterprise Income Verification (EIV) system by public housing agencies and multifamily housing owners and management agents when verifying the employment and income of program participants. The purpose of the December 2009, final rule was to clarify certain provisions of HUD's January 27, 2009, final rule on the same subject matter, and to return other regulatory provisions to their pre-January 2009, final rule content. Although the preamble to the December 29, 2009, final rule clearly stated that the December 29, 2009, final rule was rescinding specified regulatory changes made by the January 27, 2009, final rule, the regulatory text of the December 29, 2009, final rule inadvertently omitted the corresponding regulatory instruction to that effect. This final rule corrects this omission by formally withdrawing the rescinded regulatory amendments consistent with the stated purpose of the December 29, 2009, final rule.

DATES: The amendments to 24 CFR 5.508, 5.516, 5.518, 5.609 and 92.203 published at 74 FR 4832, January 27, 2009, which were delayed at 74 FR 13339, March 27, 2009, and further delayed at 74 FR 44285, August 28, 2009, are withdrawn effective January 31, 2010.

FOR FURTHER INFORMATION CONTACT: For Office of Public and Indian Housing programs, contact Nicole Faison, Program Advisor for the Office of Public Housing and Voucher Programs, Department of Housing and Urban Development, 451 7th Street, SW., Room 4214, Washington, DC 20410, telephone number 202-402-4267. For Office of Housing Programs, contact Gail Williamson, Director of the Housing Assistance Policy Division, Department of Housing and Urban Development,

451 7th Street, SW., Room 6138, Washington, DC 20410, telephone number 202-402-2473. (These are not toll-free numbers.) Persons with hearing or speech impairments may access these numbers through TTY by calling the toll-free Federal Information Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION: On January 27, 2009, at 74 FR 4832, HUD published a final rule, entitled "Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs" (January 2009 Final Rule). The January 2009 Final Rule revised HUD's public and assisted housing program regulations to implement the upfront income verification process for program participants and to require the use of HUD's EIV system by public housing agencies and owners and management agents. The January 2009 Final Rule was originally scheduled to become effective on March 30, 2009. Consistent with Administration policy to review rules issued during the transition from one Administration to another, on February 11, 2009, at 74 FR 6839, HUD published a notice in the **Federal Register** seeking public comment on whether to delay the effective date of the January 2009 Final Rule and requesting comment generally on this rule.

Following publication of the February 11, 2009, **Federal Register** notice, HUD issued a final rule on March 27, 2009 (74 FR 13339), that extended the effective date of the January Final Rule to September 30, 2009. The purpose of this extension was to provide HUD with time to review the public comments received in response to the February 11, 2009, notice. On August 28, 2009, at 74 FR 44285, HUD published a final rule that further extended the effective date of the January 2009 Final Rule to January 31, 2010. The further extension was undertaken to allow the two HUD Assistant Secretaries, who have responsibility for the programs affected by the rule and were then only recently confirmed, sufficient time to review the subject matter of the January 2009 Final Rule, and to review and consider the public comments received on HUD's February 11, 2009, **Federal Register** notice.

On October 15, 2009, at 74 FR 52931, HUD published a proposed rule soliciting public comment on proposed regulatory revisions to the January 2009 Final Rule to address the issues and concerns raised by the public commenters on the January 2009 Final Rule. The regulatory changes proposed by HUD in the October 15, 2009, proposed rule were few and the changes

focused on addressing issues raised by the commenters regarding the purpose of the January 2009 Final Rule, which is full implementation of the EIV system. Other issues raised by the commenters but extraneous to EIV implementation were deferred for future consideration. Specifically, HUD proposed to withdraw the January 2009 Final Rule amendments to the definition of annual income and to HUD's noncitizens regulations and return these provisions to their pre-January 2009 content.

On December 29, 2009, (74 FR 68924), HUD published a final rule following publication of the October 15, 2009, proposed rule, and taking into consideration the public comments received on the proposed rule. Consistent with the preceding October 2009, proposed rule, the purpose of the December 2009, final rule was to clarify certain provisions of HUD's January 2009 Final Rule and to return other regulatory provisions to their pre-January 2009, final rule content. Although the preamble to the December 29, 2009, final rule clearly stated that the December 29, 2009, final rule was rescinding specified regulatory changes made by the January 2009 Final Rule, the regulatory text of the December 29, 2009, final rule inadvertently omitted the corresponding regulatory instruction to that effect.¹

This final rule corrects this omission by formally withdrawing the rescinded regulatory amendments, as of the effective date of the December 29, 2009, final rule, as intended. Interested readers may refer to the preamble of the December 29, 2009, final rule for additional information regarding the regulatory changes.

Dated: January 21, 2010.

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DEPARTMENT OF LABOR

Office of Labor-Management Standards

29 CFR Part 404

Labor Organization Officer and Employee Reports

CFR Correction

In Title 29 of the Code of Federal Regulations, Parts 100 to 499, revised as

¹ See e.g. 74 FR at 68924, first column, and 68925, middle column.