

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5, 200, 236, 266, 880, 886, and 982

[Docket No. FR-4321-P-01]

RIN 2501-AC49

Uniform Financial Reporting Standards for HUD Housing Programs

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule.

SUMMARY: This rule would establish for HUD's Public Housing, Section 8 housing, and multifamily insured housing programs uniform annual financial reporting standards. The rule would require public housing agencies and project owners of HUD-assisted housing to submit electronically to HUD, on an annual basis, certain financial information in a standardized format. Electronic submission is necessary because the manual submission of annual financial information to HUD has become a significant administrative burden to housing authorities, project owners, and mortgagees, as well as to HUD. This rule also would require that the annual financial information to be submitted to HUD must be prepared in accordance with generally accepted accounting principles. HUD is developing the format and the content of the financial information to be reported to HUD annually.

The objective of this rule is to standardize the annual financial information submission process and, through standardization, bring consistency to the evaluation of the financial condition of housing assisted under HUD programs.

DATES: *Comment due date:* Comments must be submitted on or before July 30, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Communications should refer to the above docket number and title. Facsimile (FAX) comments are *not* acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: For further information contact the Real Estate Assessment Center, Attention

Paul Maxwell, Department of Housing and Urban Development, 490 L'Enfant Plaza East, SW, Room 8204, Washington, DC 20410; telephone (202) 755-2082 (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 (800) 877-8399.

SUPPLEMENTARY INFORMATION:

I. Background

HUD 2020 Management Reforms

The HUD 2020 Management Reform Plan announced in June 1997, and published in the **Federal Register** on August 12, 1997 (62 FR 43204) presents significant changes to HUD's structure, processes and systems. These changes are directed to improving the efficiency and effectiveness of HUD's programs, operations and the provision of its services. One of the major reforms announced in the HUD 2020 Management Reform Plan is the establishment of a Real Estate Assessment Center (REAC) to be a separate organization within HUD apart from the traditional program functional areas. The REAC is responsible for evaluating the performance of entities managing or owning housing for which HUD has a financial interest or statutory obligation to monitor.

Specifically, REAC is responsible for monitoring the following areas: (1) the physical conditions of HUD properties; (2) the financial conditions of the properties; (3) the management capabilities of the property owners of this housing; and (4) general resident satisfaction. The objective of REAC is to protect HUD's interest (as well as the interest of taxpayers) by identifying and mitigating the risks of financial loss due to: (1) physical deterioration from neglected/inadequate maintenance or modernization; (2) financial insolvency of the owner that impacts the availability of funds to meet HUD program obligations; or (3) intentional fraud, waste and abuse. The resident satisfaction process will allow REAC to hear of conditions directly from tenants and to take or require action when survey results significantly differ from other analysis results.

For REAC to properly evaluate and monitor the financial condition of HUD properties, certain financial information must be provided to HUD on an annual basis. The statutes, regulations, and contracts governing HUD housing programs currently provide for the annual submission of financial information to HUD, as well as such other information that HUD may require

to monitor compliance with program statutory, regulatory, and contractual requirements. However, the financial reporting standards vary to some degree from program to program.

As part of HUD's management reform, HUD created working groups familiar with both FHA properties and public housing properties to examine the annual financial information that now is submitted to HUD under its various housing programs. The working groups discussed what financial information needs to be submitted to HUD on an annual basis, and how preparation and submission of this information, and the evaluation by HUD, could be made less burdensome while preserving the enforcement integrity of the information. The conclusion of the working groups was that the annual financial information required of PHAs and project owners should be made uniform to the extent possible across the various HUD housing programs, and that the information should be submitted to HUD in a standardized format. Additionally, there was agreement that the information should be prepared by the entities in accordance with generally accepted accounting principles (GAAP), and the information should be submitted to HUD electronically.

II. Uniform Financial Reporting Standards

Highlights of the Rule

This rule would establish for HUD's public housing, Section 8 housing, other assisted housing, and multifamily insured housing programs annual financial reporting standards. The rule would require public housing agencies and project owners to submit electronically to HUD, on an annual basis, certain financial information, as determined by HUD, and in accordance with a standardized format to be established by HUD. Electronic submission is necessary because the manual submission of HUD financial information has become a significant administrative burden to housing agencies and project owners as well as to HUD. This rule would also require that the annual financial information to be reported to HUD must be prepared in accordance with generally accepted accounting principles (GAAP). "Generally accepted accounting principles" has the meaning specified in generally accepted auditing standards issued by the American Institute of Certified Public Accountants (AICPA). Under GAAP, the accounting principles and financial reporting standards are established by the Governmental

Accounting Standards Board (GASB) for governmental entities, and by the Financial Accounting Standards Board (FASB) for nongovernmental entities.

The specific compliance dates for covered entities to meet the reporting requirements in this rule are discussed in more detail later in this preamble under the heading "Compliance with New Uniform Financial Reporting Requirements." Generally, however, this rule proposes that the annual submission date for the report would be no later than sixty (60) days after the end of the covered entity's fiscal year. Public housing agencies are currently required to report the results of operations based on HUD accounting requirements within 45 days following the close of their fiscal year. Accordingly, this rule amends the time period for public housing agencies by establishing this 60-day time period in part 5, subpart H. HUD is currently developing the content and the format in which the annual financial information is to be submitted. The format will be substantially the same for all covered programs, but the format may vary in certain respects to reflect different types of reporting entities (e.g., owners of multifamily/FHA-related housing vs. PHAs). HUD's objective is to standardize the financial information submission process and through standardization bring consistency to the assessment of the financial condition of the housing.

Standardized Financial Information

All HUD housing programs currently require the submission of financial information at least annually to HUD. Much of the financial information that is now submitted to HUD would continue to be submitted to HUD. The content of the annual financial report to be submitted to HUD would not be materially altered by this rule. It is HUD's intention, however, to remove from this report redundant information wherever it is identified. Therefore, with respect to information to be reported, this rule would not represent a significant departure from current reporting practice. The manner in which the financial information is prepared and the format in which it is submitted would be altered by the requirements to comply with GAAP and to submit the report electronically and in a standardized format. A standardized format is anticipated to bring uniformity and consistency to the evaluation of the financial data. Electronic submission is anticipated to bring efficiency to the process and reduce administrative burden.

Generally Accepted Accounting Principles (GAAP)

Accounting and reporting in accordance with GAAP, as prescribed by GASB and FASB, would bring much needed consistency to HUD program evaluation. Conversion to GAAP would require the covered HUD program participant to manage its accounting and reporting in accordance with a standard set of rules published by auditing and accounting professionals and recognized both within and outside of government. The use of GAAP, therefore, would enable HUD and program participants to account for transactions and report results of operations using widely accepted protocols. Financial reports based on GAAP are widely accepted by industry and government and are, therefore, widely understood. The relative consistency of GAAP would allow HUD to perform analysis on its large housing portfolio in ways that would assure the overall reliability and validity of the results. As noted earlier in this preamble, HUD has contacted industry leaders and participants in HUD's public housing and insured and subsidized housing programs, and has discussed GAAP and financial reporting, generally, with these parties. From these discussions, HUD has learned that GAAP accounting and reporting is more meaningful than present HUD accounting, and that these entities seek the benefits of the change. By and large the multifamily housing industry already adheres to GAAP tenets.

With respect to public housing, many PHAs are also already adhering to GAAP tenets. At least two States (Louisiana and Tennessee) require that all PHAs in those States convert their HUD basis of accounting financial statements to a GAAP basis for State reporting purposes. Therefore, PHAs, as well as the accountants and auditors in those two States have experience with the GAAP conversion process. Additionally, several large PHAs (New York, Chicago, Denver, Seattle, and Baltimore, for example) have already converted to GAAP. It is expected that many PHAs have quantified the effect of the differences between GAAP and the HUD basis of accounting because of the guidance given in the Public and Indian Housing Low Rent Accounting Guide and because of other business and operating needs (e.g., the liability for sick and vacation leave). Further, many PHAs have expressed to HUD their interest in GAAP reporting for the purpose of ease of understanding by their board members and for acceptance

by lenders for private funding and for other non-HUD reporting purposes.

For those PHAs that may not be familiar with GAAP or that have not had occasion to prepare GAAP financial reports for other submissions (for example, reports that may be required to be submitted to State or local governments), accounting support services are an eligible expense under the performance funding system (PFS). To ease the conversion, the current public housing agency accounting guide and chart of accounts will not be modified except to add those additional accounts needed to record new transactions in accordance with GAAP or to enhance the existing chart of accounts to address current business operation requirements. Some illustrative examples of these new accounts are: (1) An allowance for uncollectible receivables and the related bad debt expense; (2) an allowance for depreciation of buildings, structures, and equipment and the related depreciation expense; and (3) liability and expense accounts for probable losses expected from litigation, claims and other contingencies. While a PHA's accounting staff will have to quantify the amounts to be recorded in these new accounts, the PHA's independent public accountants can provide guidance on GAAP. HUD also will offer guidance for purposes of standardizing the conversion results.

Electronic Submission

Both HUD and the various entities that participate in HUD programs are making more extensive use of automated systems. Vice President Gore's Report of the National Performance Review has, as a stated objective, the expanded 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). Requiring the electronic submission of financial data in HUD housing programs is another step in implementing the Vice President's objective. The electronic submission of information results in significant benefits, such as increasing the speed of information preparation and exchange, cost savings from reduced need for storage space, improved product because electronic preparation generally results in reduced errors, and faster HUD review and analysis.

The manner of electronic submission of financial reports contemplated by HUD is via the Internet, rather than through tape, diskette, or paper. HUD, however, may approve transmission of

the data by tape or diskette if HUD determines that the cost of electronic Internet transmission would be excessive. In this day and age of increased automation in communications and business transactions, including the reporting of information, HUD anticipates that the instances in which covered entities will not be able to comply with submission of financial data electronically via Internet will be very few. Implementation of this electronic standardized financial reporting system would help to bring HUD up to speed with its program partners in terms of modern technology.

Financial Report Submission Date

The rule provides that the annual submission date for the report will be sixty (60) days after the end of the covered entity's fiscal year. The 60-day requirement appears in existing regulations, regulatory agreements, and/or subsidy contracts for most of the housing covered by this rule (see, e.g., the Section 8 project-based assistance programs). Since HUD has determined that the 60-day requirement has provided a reasonable amount of time to compile and submit the required information, and since a majority of the covered entities are familiar with this time period, HUD has determined that there is no compelling reason to change the 60-day requirement. Since under existing practice, public housing agencies generally report the results of operations to HUD within 45 days following the end of their fiscal years, this rule would allow PHAs 15 extra days during which to submit their financial reports. The dates on which HUD intends to make these reporting requirements effective and mandatory are discussed later in this preamble, under the heading "Compliance with New Uniform Financial Reporting Requirements."

HUD Programs Covered

The uniform financial reporting standards would apply to owners and/or administrators of housing under the following HUD programs:

1. Public Housing

The reporting requirements would apply to PHAs receiving assistance under sections 5, 9, or 14 of the U.S. Housing Act of 1937 (42 U.S.C. 1437c, 1437g, and 1437l) (the 1937 Act).

2. PHAs Administering Section 8 Housing Assistance Payments Programs

The reporting requirements would apply to PHAs as contract administrators for any Section 8 project-

based or tenant-based housing assistance payments program, which includes assistance under the following programs:

(i) Section 8 project-based housing assistance payments programs, including, but not limited to, the Section 8 New Construction, Substantial Rehabilitation, Loan Management Set-Aside, Property Disposition, and Moderate Rehabilitation (including the Single Room Occupancy program for homeless individuals);

(ii) Section 8 Project-Based Certificate programs;

(iii) Any program providing Section 8 project-based renewal contracts; and

(iv) Section 8 tenant-based assistance under the Section 8 Certificate and Voucher program.

3. Owners of Housing Receiving Section 8 Project-Based Housing Assistance

The reporting requirements would apply to owners of housing assisted under any Section 8 project-based housing assistance payments program:

(i) Including, but not limited to, the Section 8 New Construction, Substantial Rehabilitation, Loan Management Set-Aside, and Property Disposition programs;

(ii) Excluding the Section 8 Moderate Rehabilitation Program (which includes the Single Room Occupancy program for homeless individuals) and the Section 8 Project-Based Certificate Program.

4. Multifamily Housing

The reporting requirements would apply to owners of housing receiving assistance or loans under the following HUD programs:

—Section 202 Program of Supportive Housing for the Elderly;

—Section 811 Program of Supportive Housing for Persons with Disabilities; and

—Section 202 loan program for projects for the elderly and handicapped (including 202/8 projects and 202/162 projects).

The reporting requirements would also apply to owners of all housing with mortgages insured, coinsured, or held by HUD, or housing that is receiving assistance from HUD. Such housing would include, but may not be limited to, housing under the following authorities:

—Section 207 of the National Housing Act (NHA) (12 U.S.C. 1701 *et seq.*) (Rental Housing Insurance);

—Section 213 of the NHA (Cooperative Housing Insurance);

—Section 220 of the NHA (Rehabilitation and Neighborhood Conservation Housing Insurance);

—Section 221(d)(3) and (5) of the NHA (Housing for Moderate Income and Displaced Families);

—Section 221(d)(4) of the NHA (Housing for Moderate Income and Displaced Families);

—Section 231 of the NHA (Housing for Elderly Persons);

—Section 232 of the NHA (Mortgage Insurance for Nursing Homes, Intermediate Care Facilities, Board and Care Homes);

—Section 234(d) of the NHA (Rental) (Mortgage Insurance for Condominiums);

—Section 236 of the NHA (Rental and Cooperative Housing for Lower Income Families);

—Section 241 of the NHA (Supplemental Loans for Multifamily Projects); and

—Section 542(c) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) (Housing Finance Agency Risk Sharing Program).

Section 5.801(a)(4) of this proposed rule lists those sections of the National Housing Act that specifically give the Secretary authority to insure mortgages. Sections of the NHA that give the Secretary authority to insure mortgages "pursuant to" another section of the NHA are not listed in the coverage of § 5.801 of this proposed rule, because HUD ultimately has insured the mortgages under one of the listed statutory sections (e.g., a coinsured mortgage may be insured under section 207 of the NHA, pursuant to section 244 of the NHA).

Compliance With New Uniform Financial Reporting Requirements

For PHAs, as recipients of assistance under sections 5, 9, or 14, or as contract administrators of the various Section 8 assisted housing programs listed in section 2, above, HUD intends that the requirement of electronic submission of GAAP-based financial reports, in the manner and in the format prescribed by HUD, will begin with those PHAs with fiscal years ending September 30, 1999 and later. This compliance schedule will allow sufficient conversion time for PHAs that are not currently using GAAP. Unaudited financial statements will be required 60 days after the PHA's fiscal year end (i.e., November 30, 1999), and audited financial statements will then be required no later than 9 months after the PHA's fiscal year end, in accordance with the Single Audit Act and OMB Circular A-133. A PHA with a fiscal year ending September 30, 1999 that elects to submit its unaudited financial report earlier than the due date of November 30, 1999 must submit its

report electronically and prepared in accordance with GAAP, in the manner and in the format prescribed by HUD, as provided by this rule. On or after September 30, 1998 but prior to November 30, 1999 (except for a PHA with its fiscal year ending September 30, 1999), PHAs may submit their financial reports in accordance with the financial reporting requirements of this rule, but would not be required to do so.

For all other entities to which this rule would apply ("other covered entities"), HUD intends that the requirement of electronic submission of GAAP-based audited financial reports, as provided in this rule, will begin with those other covered entities with fiscal years ending December 31, 1998 and later. The earlier starting date reflects the widespread use of GAAP by other covered entities. Beginning on January 1, 1999 and thereafter, all financial reports submitted to HUD by other covered entities would be required to be submitted in accordance with the requirements of this rule. Other covered entities with fiscal years ending December 31, 1998 are required to submit electronic, GAAP-based, audited financial reports by no later than March 1, 1999 (60 days after the close of the fiscal year). Covered entities with fiscal years ending December 31, 1998 that elect to submit their audited reports earlier than the due date of March 1, 1999 must submit their audited financial reports electronically and prepared in accordance with GAAP, in the manner and format prescribed by HUD, as provided by this rule. On or after September 30, 1998 but prior to January 1, 1999, other covered entities may submit their financial reports in accordance with this rule, but they would not be required to do so.

The reporting requirements in this rule are not intended to alter the applicability or timing of the audit requirements in the Single Audit Act (as discussed below). HUD intends to issue notices and other guidance on the details relating to the implementation of this rule.

Additionally, to allow for a period of consistent assessment of the financial reports submitted to HUD under this rule for the purpose of making any refinements or necessary adjustments, PHAs covered by this rule will not be allowed to change their fiscal years for their first three full fiscal years following the effective date of this rule.

III. Cross-Cutting Financial Reporting and Recordkeeping Requirements

While the statutory authorities for the individual HUD housing programs (e.g., the U.S. Housing Act of 1937 or the

National Housing Act) provide for the submission of financial information to HUD, in such form and at such times as prescribed by HUD, there are also certain statutory financial reporting and recordkeeping requirements that cut across several HUD programs. This rule would not supersede the requirements. These cross-cutting requirements are as follows:

The Byrd Amendment

Section 814 of the Housing Act of 1954 (42 U.S.C. 1434) (the Byrd Amendment) provides that every contract between HUD and any person or local body for a loan, advance, grant or contribution must provide that the person or local body must keep such records as HUD prescribes. The records must permit a speedy and effective audit and fully disclose the amount and disposition of the proceeds by the person or local body. The Byrd Amendment also provides that no mortgage covering new or rehabilitated multifamily housing shall be insured unless the mortgagor certifies that the mortgagor will keep the records as are prescribed by HUD in such form as to permit a speedy and effective audit. Finally, the Byrd Amendment provides that HUD and the Comptroller General of the United States shall have access to and the right to examine and audit the records.

The Single Audit Act

The Single Audit Act of 1984 (31 U.S.C. 7501 *et seq.*) (the Act), as amended by the Single Audit Act Amendments of 1996 (Pub. L. 104-156; approved July 5, 1996) (Single Audit Act of 1996), sets audit requirements for State and local governments and nonprofit organizations that receive Federal awards, including loan guarantees. The Single Audit Act of 1996 raised the monetary threshold for expenditures—from \$25,000 to \$300,000—over which it requires an entity to have an audit. The Act now provides that each entity that expends \$300,000 or more shall have either a single audit or a program-specific audit annually. The Single Audit Act of 1996 also shortened the financial report submission date from 13 months to 9 months, and it included a report submission process that includes a data collection form and streamlined filing requirements.

OMB Circular A-128 implemented the Act for State and local governments, and a separate OMB Circular A-133 implemented audit requirements for nonprofits. Similarly, the regulations in 24 CFR part 44 implemented OMB Circular A-128 audit requirements for

State and local governments, and the regulations in 24 CFR part 45 set forth the audit requirements for nonprofits under OMB Circular A-133. The program regulations for many of the housing programs addressed in this rule refer to the audit requirements in parts 44 and/or 45 (e.g., 24 CFR 200.11, 236.901, 266.510, 880.211, 886.131, 891.160).

On June 30, 1997 (62 FR 35278), OMB published in the **Federal Register** the final revisions to OMB Circular A-133. The revisions were undertaken to reflect the changes made to the Act by the Single Audit Act of 1996. Revised OMB Circular A-133 consolidated the requirements for States and local governments with the requirements for nonprofits, and therefore rescinded OMB Circular A-128. By interim rule published on November 18, 1997 (62 FR 61616), HUD adopted the requirements of revised OMB Circular A-133. Through the November 18, 1997 interim rule, HUD removed and reserved 24 CFR parts 44 and 45, since these parts are no longer applicable (upon issuance of revised OMB Circular A-133). HUD is currently developing a rule that will correct all references in HUD's regulations to those obsolete regulations. The financial reporting submission requirements in this proposed rule would be consistent with the provisions of the Act and OMB Circular A-133.

IV. Objective of the Rule

The purpose of this rule is to bring uniformity and consistency to the financial reporting component of HUD housing programs, which otherwise varies from program to program, in most cases solely on the basis that the program is not administered by the same HUD office. This rule will improve the efficiency of the financial reporting process, and reduce the administrative burden for covered entities and for HUD.

V. Regulatory Amendments

New Subpart for Uniform Financial Reporting Standards

This rule creates a new subpart H in 24 CFR part 5. The regulations in part 5 represent HUD's general program requirements, as well as requirements that cut across one or more HUD programs. This new subpart H consists of one section. Section 5.801(a) describes the entities to which the uniform financial reporting standards will apply. Paragraph (b) of § 5.801 provides that entities covered by subpart H must submit electronically to HUD certain annual financial

information, prepared in accordance with generally accepted accounting principles, and in the format prescribed by HUD. In accordance with paragraph (c) of § 5.801, the information must be submitted to HUD annually, no later than 60 days after the end of the fiscal year of the reporting entity.

Conforming Amendments in Program Regulations

In accordance with the uniform financial reporting standards, this rule also makes several conforming amendments to HUD's program regulations to reference compliance with the uniform financial reporting standards in 24 CFR part 5, subpart H. HUD is developing a separate proposal regarding the overall assessment of public housing, in which HUD will further address the applicability of the uniform financial reporting standards in 24 CFR part 5, subpart H, to the public housing programs.

One of the conforming amendments proposed in this rule would be to add a new § 200.36, which would refer to the uniform financial reporting requirements in subpart H of part 5. Section 200.36 would apply the new financial reporting requirements to all HUD's multifamily mortgage insurance programs, since many of the various program regulations (e.g., 24 CFR parts 207, 213, 220, 221, 231, 232, 234, 241) refer to the cross-cutting requirements in part 200. This rule proposes to amend the heading for subpart A of part 200 to clarify that the financial reporting requirement would be a continuing eligibility requirement.

HUD may make additional conforming amendments at the final rule stage of this rule to remove any outdated or inconsistent regulatory provisions.

VI. Justification for Shortened Comment Period

In general, it is HUD's policy that notices of proposed rulemaking are to afford the public not less than 60 days for submission of comments, in

accordance with its regulations on rulemaking in 24 CFR part 10. However, HUD has determined that there is good cause to reduce the public comment period for this proposed rule to 30 days. As discussed in more detail earlier in this preamble, the announcement, through this rule, of HUD's proposal to require standardized financial information, to be prepared in accordance with GAAP and electronically submitted, has been developed with the participation of HUD's program participants, industry leaders and experts in the financial and accounting industries. As also discussed in the preamble, the change to GAAP and the requirement of the submission of annual financial reports in electronic and standardized format will not be a significant change for many HUD program participants. In HUD's multifamily programs, the multifamily program participants already largely adhere to GAAP tenets. In HUD's public housing programs, several public housing agencies already adhere to GAAP tenets. These PHAs can serve as resources to other PHAs for assistance in the conversion process.

GAAP requires that financial statements prepared on another comprehensive basis of accounting (the basis prescribed by HUD accounting, for example) include in the accompanying notes, a summary of significant accounting policies that would include the basis of presentation and describe how that basis differs from generally accepted accounting principles. PHAs, therefore, under current non-GAAP reporting are already aware, or should be aware, of the differences between the basis of accounting prescribed by HUD and that prescribed by GAAP. Additionally, the timetable for this rule recognizes the time allowed by the Single Audit Act for the preparation and submission of the final audited statements. This period of time allows HUD to work with PHAs and private owners not currently using GAAP to assist them in the conversion process.

The changes to the financial reporting requirements, proposed by this rule, will bring consistency to the evaluation of the financial condition of housing assisted under various HUD programs, which benefits the entities covered by this rule. The standardization of and electronic submission of the annual financial information due to HUD will not only bring consistency for all program participants, it will reduce the administrative burden on program participants. Electronic submission of financial information results in cost savings from reduced need for storage space, improved product because electronic preparation generally results in reduced errors as well as other benefits such as increased speed in the preparation and exchange of information preparation and exchange, and faster HUD review and analysis.

Given these reasons, HUD has determined that the 30-day comment period for this proposed rule should provide sufficient notice and opportunity for interested entities to comment. In order to provide the fullest and most expedient access to the provisions of this proposed rule, HUD will make it available on the HUD Home Page on the World Wide Web at <http://www.hud.gov>, on the date of publication in the **Federal Register**. HUD will also directly notify entities that have expressed a significant interest to HUD by sending such entities a copy of this proposed rule.

VII. Findings and Certifications

Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted to the Office of Management and Budget (OMB) for review, under section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

In accordance with 5 CFR 1320.5(a)(1)(iv), HUD estimates the total reporting and recordkeeping burden that will result from the proposed collection of information as follows:

REPORTING BURDEN

	Number of respondents	Frequency of response	Estimated time (hours)	Average response (hours)
PHAs	3,300	1	.75	2,475
Multifamily Housing Owners	30,000	1	.75	22,500
Total Reporting Burden				24,975

In accordance with 5 CFR 1320.8(d)(1), the Department is

soliciting comments from members of the public and affected agencies

concerning the proposed collection of information to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Interested persons are invited to submit comments regarding the information collection requirements in this proposal. Under the provisions of 5 CFR part 1320, OMB is required to make a decision concerning this collection of information between 30 and 60 days after today's publication date. Therefore, a comment on the information collection requirements is best assured of having its full effect if OMB receives the comment within 30 days of today's publication. This time frame does not affect the deadline for comments to the agency on the proposed rule, however. Comments must refer to the proposal by name and docket number (FR-4321) and must be sent to:

Joseph F. Lackey, Jr., HUD Desk Officer,
Office of Management and Budget,
New Executive Office Building,
Washington, DC 20503.

and

Paul Maxwell, Reports Liaison Officer,
Department of Housing & Urban
Development, 4900 L'Enfant Plaza
East, SW, Room 8204, Washington,
DC 20410.

Executive Order 12866

The Office of Management and Budget (OMB) reviewed this proposed rule under Executive Order 12866, *Regulatory Planning and Review*, issued by the President on September 30, 1993. OMB determined that this rule is a "significant regulatory action," as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). Any changes made in this rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing

and Urban Development, 451 Seventh Street, SW, Washington, DC.

Environmental Impact

This proposed rule involves external administrative requirements and does not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6) and (where this rule would amend existing provisions) 50.19(c)(2), this rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this proposed rule before publication and by approving it certifies that this rule is not anticipated to have a significant economic impact on a substantial number of small entities. The financial reporting requirements proposed to be established by this rule are anticipated to reduce administrative burden for all entities covered by this rule, including small entities. As noted in the preamble, this rule does not propose a new reporting requirement. The annual reporting of certain financial information is already a HUD program requirement. What this rule proposes is to standardize, to the extent possible, the content of the information and the preparation of the information (in accordance with GAAP), and to provide for electronic submission. These proposed changes to financial reporting to HUD are anticipated to bring consistency, simplicity, and reduced administrative burden to the reporting process. For those entities unfamiliar with GAAP, and particularly for any small entities that may be unfamiliar with GAAP, HUD intends to conduct training seminars in order to assist small entities in their conversion to GAAP. With respect to costs, the audit costs assumed by PHAs and multifamily project owners are a recognized part of operating and administrative expenses, and accordingly, it is anticipated that there will be no (or very little) monetary costs incurred. As noted in the preamble, the Federal Housing Commissioner has required GAAP-based accounting for a number of years, and the vast majority of owners already adhere to its tenets. Therefore, any burden involved in conversion to GAAP in FHA programs is anticipated to be minimal. Further, in developing its electronic filing requirements, FHA has involved all stakeholders in the development effort, including owners

and agent organizations and the accounting profession.

In addition to the issues of training and costs, entities will have up to 9 months to prepare statements in accordance with GAAP (the period of time allowed under the Single Audit Act). Notwithstanding HUD's determination that this rule would not have a significant economic impact on small entities, HUD specifically invites comments regarding alternatives to this rule that would meet HUD's objectives as described in this preamble.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this proposed rule would not have substantial direct effects on States or their political subdivisions, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, this rule is not subject to review under the Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4; approved March 22, 1995) (UMBRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and the private sector. This proposed rule would not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the UMRA.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers for the programs that would be affected by this proposed 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))
- 14.856—Lower Income Housing Assistance Program—Section 8 Moderate Rehabilitation

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 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair Housing, Home improvement, Housing standards, Incorporation by reference, Lead poisoning, Loan programs—housing and community development, Minimum property standards, Mortgage insurance, Organization and functions (Government agencies) Penalties, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

24 CFR Part 236

Grant programs—housing and community development, Low and moderate income housing, Mortgage insurance, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 266

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

24 CFR Part 880

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 886

Grant programs—housing and community development, Lead poisoning, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 982

Grant programs—housing and community development, Housing, Rent

subsidies, 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. A new subpart H, consisting of § 5.801, is added to part 5 to read as follows:

Subpart H—Uniform Financial Reporting Standards

§ 5.801 Uniform financial reporting standards.

(a) *Applicability.* This subpart H implements uniform financial reporting standards for:

(1) Public housing agencies (PHAs) receiving assistance under sections 5, 9, or 14 of the 1937 Act (42 U.S.C. 1437c, 1437g, and 1437f) (Public Housing);

(2) PHAs as contract administrators for any Section 8 project-based or tenant-based housing assistance payments program, which includes assistance under the following programs:

(i) Section 8 project-based housing assistance payments programs, including, but not limited to, the Section 8 New Construction, Substantial Rehabilitation, Loan Management Set-Aside, Property Disposition, and Moderate Rehabilitation (including the Single Room Occupancy program for homeless individuals);

(ii) Section 8 Project-Based Certificate programs;

(iii) Any program providing Section 8 project-based renewal contracts; and

(iv) Section 8 tenant-based assistance under the Section 8 Certificate and Voucher program;

(3) Owners of housing assisted under any Section 8 project-based housing assistance payments program:

(i) Including, but not limited to, the Section 8 New Construction, Substantial Rehabilitation, Loan Management Set-Aside, and Property Disposition programs;

(ii) Excluding the Section 8 Moderate Rehabilitation Program (which includes the Single Room Occupancy program for homeless individuals) and the Section 8 Project-Based Certificate Program;

(4) Owners of multifamily projects receiving direct or indirect assistance from HUD, or with mortgages insured, coinsured, or held by HUD, including but not limited to housing under the following HUD programs:

(i) Section 202 Program of Supportive Housing for the Elderly;

(ii) Section 811 Program of Supportive Housing for Persons with Disabilities;

(iii) Section 202 loan program for projects for the elderly and handicapped (including 202/8 projects and 202/162 projects);

(iv) Section 207 of the National Housing Act (NHA) (12 U.S.C. 1701 *et seq.*) (Rental Housing Insurance);

(v) Section 213 of the NHA (Cooperative Housing Insurance);

(vi) Section 220 of the NHA (Rehabilitation and Neighborhood Conservation Housing Insurance);

(vii) Section 221(d)(3) and (5) of the NHA (Housing for Moderate Income and Displaced Families);

(viii) Section 221(d)(4) of the NHA (Housing for Moderate Income and Displaced Families);

(ix) Section 231 of the NHA (Housing for Elderly Persons);

(x) Section 232 of the NHA (Mortgage Insurance for Nursing Homes, Intermediate Care Facilities, Board and Care Homes);

(xi) Section 234(d) of the NHA (Rental) (Mortgage Insurance for Condominiums);

(xii) Section 236 of the NHA (Rental and Cooperative Housing for Lower Income Families);

(xiii) Section 241 of the NHA (Supplemental Loans for Multifamily Projects); and

(xiv) Section 542(c) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) (Housing Finance Agency Risk-Sharing Program).

(b) *Submission of financial information.* Entities (or individuals) to which this subpart is applicable must provide to HUD, on an annual basis, such financial information as required by HUD. This financial information must be:

(1) Prepared in accordance with Generally Accepted Accounting Principles as further defined by HUD in supplementary guidance;

(2) Submitted electronically in the electronic format designated by HUD; and

(3) Submitted in such form and substance as prescribed by HUD.

(c) *Annual financial report filing dates.* 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.

(d) *Reporting compliance dates.*

Entities (or individuals) that are subject to the reporting requirements in this section must commence compliance with these requirements as follows:

(1) For PHAs listed in paragraphs (a)(1) and (a)(2) of this section, the requirements of this section will begin with those PHAs with fiscal years ending September 30, 1999 and later. Unaudited financial statements will be required 60 days after the PHA's fiscal year end, and audited financial statements will then be required no later than 9 months after the PHA's fiscal year end, in accordance with the Single Audit Act and OMB Circular A-133 (See 24 CFR 84.26). A PHA with a fiscal year ending September 30, 1999 that elects to submit its unaudited financial report earlier than the due date of November 30, 1999 must submit its report as required in this section. On or after September 30, 1998, but prior to November 30, 1999 (except for a PHA with its fiscal year ending September 30, 1999), PHAs may submit their financial reports in accordance with this section.

(2) For entities listed in paragraphs (a)(3) and (4) of this section, the requirements of this section will begin with those entities with fiscal years ending December 31, 1998 and later. Entities listed in paragraphs (a)(3) and (a)(4) of this section with fiscal years ending December 31, 1998 that elect to submit their reports earlier than the due date must submit their financial reports as required in this section. On or after September 30, 1998 but prior to January 1, 1999, these entities may submit their financial reports in accordance with this section.

(e) *Limitation on changing fiscal years.* To allow for a period of consistent assessment of the financial reports submitted to HUD under this subpart part, PHAs listed in paragraphs (a)(1) and (a)(2) of this section will not be allowed to change their fiscal years for their first three full fiscal years following [the effective date of the final rule to be inserted at the final rule stage].

PART 200—INTRODUCTION TO FHA PROGRAMS

3. The authority citation for 24 CFR part 200 continues to read as follows:

Authority: 12 U.S.C. 1701–1715z–18; 42 U.S.C. 3535(d).

4. The heading of Subpart A is revised to read as follows:

Subpart A—Requirements for Application, Commitment, and Endorsement Generally Applicable to Multifamily and Health Care Facility Mortgage Insurance Programs; and Continuing Eligibility Requirements for Existing Projects

5. A new § 200.36 is added immediately after § 200.35 to read as follows:

§ 200.36 Financial reporting requirements.

The mortgagor must comply with the financial reporting requirements in 24 CFR part 5, subpart H.

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENT FOR RENTAL PROJECTS

6. The authority citation for 24 CFR part 236 continues to read as follows:

Authority: 12 U.S.C. 1715b and 1715z–1; 42 U.S.C. 3535(d).

7. Section 236.1 is amended by revising the heading, by redesignating paragraph (b) as paragraph (c), and by adding a new paragraph (b), to read as follows:

§ 236.1 Applicability, cross-reference, and savings clause.

* * * * *

(b) The mortgagor must comply with the financial reporting requirements in 24 CFR part 5, subpart H.

* * * * *

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

8. 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).

9. In § 266.505, paragraph (b)(7) is revised to read as follows:

§ 266.505 Regulatory agreement requirements.

* * * * *

(b) * * *

(7) Maintain complete books and records established solely for the project and comply with the financial reporting requirements in 24 CFR part 5, subpart H.

* * * * *

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR NEW CONSTRUCTION

10. The authority citation for 24 CFR part 880 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), 12701, and 13611–13619.

11. In § 880.601, paragraph (d)(1) is revised to read as follows:

§ 880.601 Responsibilities of owner.

* * * * *

(d) * * *

(1) Financial information in accordance with 24 CFR part 5, subpart H; and

* * * * *

PART 886—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SPECIAL ALLOCATIONS

12. The authority citation for 24 CFR part 886 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), and 13611–13619.

13. In § 886.318, paragraph (d)(1) is revised to read as follows:

§ 886.318 Responsibilities of the owner.

* * * * *

(d) * * *

(1) Financial information in accordance with 24 CFR part 5, subpart H; and

* * * * *

PART 982—SECTION 8 TENANT-BASED ASSISTANCE: UNIFIED RULE FOR TENANT-BASED ASSISTANCE UNDER THE SECTION 8 RENTAL CERTIFICATE PROGRAM AND THE SECTION 8 RENTAL VOUCHER PROGRAM

14. The authority citation for 24 CFR part 982 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

15. In § 982.158, paragraph (a) is amended by adding a sentence at the end, to read as follows:

§ 982.158 Program accounts and records.

(a) * * * The HA must comply with the financial reporting requirements in 24 CFR part 5, subpart H.

* * * * *

Dated: June 5, 1998.

Andrew Cuomo,
Secretary.

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