

Registered Order

TUESDAY, JANUARY 31, 1978  
PART III



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**DEPARTMENT OF  
HOUSING  
AND URBAN  
DEVELOPMENT**

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**SECTION 8. HOUSING  
ASSISTANCE  
PAYMENTS PROGRAM—  
SUBSTANTIAL  
REHABILITATION**

**Special Procedures for  
Neighborhood Strategy  
Areas**

## [4210-01]

## Title 24—Housing and Urban Development

## CHAPTER VIII—LOW INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R 77-387]

## PART 881—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SUBSTANTIAL REHABILITATION

## Special Procedures for Neighborhood Strategy Areas

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

**SUMMARY:** This rule sets forth policies and procedures under which Section 8 Substantial Rehabilitation under this subpart may be used in identified Neighborhood Strategy Areas (NSAs) where it is expected that concentrated community development and other housing activities will revitalize the area within a specified period of time.

**DATES:** Effective date: January 31, 1978. Comment date: Additional comments on this Final Rule should be filed with the Rules Docket Clerk by June 1, 1978.

**ADDRESS:** Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-7603.

## FOR FURTHER INFORMATION CONTACT:

Richard L. Schmitz, Acting Director, Section 8 and Leased Housing Division, Office of Assisted Housing Development, Office of Assisted Housing, U.S. Department of Housing and Urban Development, Room 6254, 202-755-5380.

**SUPPLEMENTARY INFORMATION:** Units of general local government eligible to utilize these special procedures are those local governments which are applying for or are receiving assistance under 24 CFR, 570.102 or 570.103. Approval of a request from a unit of local government to use the special procedures (1) assures the general availability of HUD mortgage insurance in the NSA, and (2) sets aside a specific amount of Section 8 Substantial Rehabilitation contract authority for use in the NSA, and (3) authorizes the local government to solicit Section 8 Substantial Rehabilitation Proposals for up to the amount of contract authority set aside. The local government will then review and submit to HUD, which has final approval authority, Section 8 Substantial Rehabilitation Proposals that it believes are approvable together with

certain certifications concerning those proposals.

The contract and budget authority available for use under these special procedures in this fiscal year will come from authority retained by the Secretary pursuant to §891.403(b). Proposals or applications for other assisted housing programs will be handled under regular procedures except that appropriate waivers may be granted to support the NSA program pending the modification of the regulations and issuances applicable to the other programs.

The diversity of housing types and ownership patterns in a proposed NSA may mean that one type of assistance such as assistance provided under this Subpart will not suffice to encourage the volume of housing rehabilitation required to solve the problems of housing deterioration in a neighborhood. Accordingly, local governments should explore the use of all possible rehabilitation financing mechanisms when developing NSA requests. Similarly, when developing plans for public improvements and services (including relocation) in a proposed NSA, local governments should consider a variety of resources such as the Community Development Block Grants (block grant), including Urban Development Action Grants (UDAG), and local funds. In this regard, section 881.301(c), which defines an eligible NSA area, is designed in part to ensure that assistance under this Subpart is targeted to areas in which all eligible block grant physical development activities and public services may be carried out.

On January 31, 1977, the Department published in the FEDERAL REGISTER (42 FR 5918) a proposed rule to revise 24 CFR, Part 881 of the Section 8 Housing Assistance Payments Program—Substantial Rehabilitation Regulations by adding a new Subpart C to create special procedures for Neighborhood Renewal Strategy Areas. Interested persons had until March 2, 1977, to submit written comments.

By the end of the comment period, 18 written comments had been received. All of these comments, as well as several received after the comment period, were carefully considered. Changes have been made to the Regulations as published for comment. A discussion of the major changes and of the more recurrent and significant comments follows:

## NEIGHBORHOOD STRATEGY AREAS

The name of the areas eligible for consideration under these procedures has been changed from Neighborhood Renewal Strategy Areas to Neighborhood Strategy Areas (NSAs).

## MORE THAN ONE NSA MAY BE PERMITTED

Several comments expressed concern that the limitation on the use of these

special procedures to only one NSA in a locality was unduly restrictive. This may be true in certain cases. Accordingly, section 881.303(a) has been revised to provide that a local government may request, and HUD may approve, more than one NSA within the jurisdiction of the local government.

## LENGTH OF TIME ALLOWED FOR SUBMISSION OF PROPOSALS

Two comments expressed concern that the requirement that "all Proposals submitted under these special procedures be submitted to HUD within six months after approval of the (NSA) request" allowed insufficient time for Proposals to be developed. It was suggested that the contract and budget authority to be used under these procedures be available for the life of the local government's program, with Proposals submitted according to a local schedule.

In response to these comments, section 881.304(f) is revised to allow submission of proposals based upon a schedule mutually agreed upon by HUD and the local government. If it appears that the local government will not be able to meet the schedule, it may be renegotiated. However, the provisions of section 881.308 allow the Field Office to use the contract and budget authority set aside under this Subpart for other proposals under this Subpart or for other purposes if the original schedule is not met.

## APPLICABILITY OF UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

Two comments noted that, in the case of a privately owned section 8 substantial rehabilitation project, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) was inapplicable. It was suggested that the Uniform Act should apply to all proposals approved under these special procedures. The Uniform Act does not apply to rehabilitation of privately owned projects or to rehabilitation by PHAs where no acquisition takes place. However, this final rule provides that the local government shall be responsible for relocation payments and services, at a level equivalent to the requirements of the Uniform Act, to all tenants displaced by rehabilitation undertaken under this subpart. These payments and services may be paid for with block grant funds. Also added is a provision which gives the option in certain cases to assist affected persons who would be eligible under the section 8 existing housing program through the issuance by the Public Housing Agency (PHA) of a Certificate of Family Participation in lieu of rental assistance payments.

**ENVIRONMENTAL CLEARANCE REQUIREMENTS—RELATIONSHIP WITH BLOCK GRANT PROGRAM**

Comments were received which addressed the environmental assessment requirement for each section 8 proposal submitted for an approved NSA. It was suggested that the process be simplified by changing this Subpart to permit the environmental clearance done under the block grant regulations to suffice for each subsequent section 8 proposal. Because the requirements of the National Environmental Policy Act of 1969 do not permit the suggested change to be made with respect to environmental review, this requirement has not been revised.

In the interest of coordinated planning by a locality, language was included in § 881.303(b) to encourage applicants to submit requests for NSA approvals simultaneously with their block grant applications.

**CONFORMITY WITH SITE AND NEIGHBORHOOD STANDARDS**

A number of comments expressed a concern that the neighborhoods which would be most appropriate as NSAs do not at present comply with the site and neighborhood standards for the section 8 substantial rehabilitation program as prescribed in § 881.112. While the Department is considering a revision of these regulations which may have the effect of permitting more neighborhoods to qualify as NSAs, the standards of § 881.112 shall continue to be applicable to all section 8 substantial rehabilitation proposals.

Where the local government proposes to use other assisted housing programs, such as section 8 new construction or public housing, the site and neighborhood standards which apply to those programs also remain applicable.

**ALLOCATION OF NEW CONSTRUCTION UNITS**

It was suggested that HUD consider allocating new construction units where needed in NSAs. In cases where section 8 new construction is needed as part of the overall strategy for the area, the local government may request preapproval of a site or sites within the NSA pursuant to the section 8 new construction regulations (see § 880.203(e)). However no more than 20 percent of the authority to be made available by the Secretary for set asides under these special procedures may be used for section 8 new construction. In addition, other housing programs such as public housing or the section 235 program may be utilized in the NSA.

**APPLICABILITY TO AREAS WITHOUT THE NEED FOR CONCENTRATED DEVELOPMENT**

Comments were received which suggested that these special procedures

are limited to areas that receive concentrated physical redevelopment activities while some areas suitable for section 8 substantial rehabilitation may not need such activities. This limitation is intentional. These procedures are specifically designed for areas where concentrated revitalization is planned. Other substantial rehabilitation needs should be identified in local housing assistance plans and addressed through the regular procedures in Subpart B, or through other assisted or unassisted housing programs.

**AREAS RECEIVING BLOCK GRANT FUNDS FROM ANOTHER UNIT OF GOVERNMENT**

NSAs may be located in communities which receive block grant funds from another unit of general local government such as an urban county. However, both the request for approval of the NSA and any proposals must be submitted by the block grant program recipient which is an eligible applicant as defined in § 881.301.

**OTHER SIGNIFICANT REVISIONS AND CLARIFICATIONS**

In response to a comment that additional public services need not always be part of NSAs, § 881.303(a) has been changed to make it clear that physical redevelopment, public improvements, and public services are examples of acceptable types of concentrated neighborhood development activities.

Several comments addressed the issue of how special procedures would work in NSAs where one to four unit properties predominated. Properties of this type may be difficult to process under normal section 8 substantial rehabilitation procedures. It is recognized that it may be difficult for owners of such properties to comply with the processing and documentation requirements of the section 8 program. However, it is anticipated that the assistance provided by the local government, coupled with the less competitive nature of these special procedures, will help to resolve this problem.

Comments expressed concern for the rights of tenants occupying units in structures to be rehabilitated under this Subpart. One comment proposed that previous tenants be given the choice of remaining in their units, or, if eligible, receive first priority for section 8 housing assistance. We have determined that the new requirements in § 881.309 providing relocation payments and services give adequate protection to tenants occupying units to be rehabilitated under these special procedures.

Several comments were received concerning the need for HUD to provide technical training and assistance if inexperienced local governments are expected to be able to submit requests

for approval of an NSA and to assist owners in the preparation of specific proposals. Field Office staff will be available to provide assistance to local governments who undertake NSAs, and, when possible, HUD will offer training to local governments which are selected for participation.

Comments were received which asked for a definition of the term "Owner" and also asked if the term covered nonprofit sponsors and developers. The term "Owner" as defined in § 881.102 covers any entity which has the legal right to lease or sublease units. This includes nonprofit sponsors.

One comment suggested that guidance was needed concerning when the services of an architect would be advisable or required. Because of the nature of rehabilitation, the determination of the need for an architect must be made on an individual basis. Moreover, in certain cases either HUD mortgage insurance or local ordinances may specify when an architect's services are required.

Because of the importance of this regulation in making assistance available to areas which will qualify as neighborhood strategy areas, it has been determined that it is in the public interest to make these regulations effective on publication. However, because of the many changes that were made as a result of considering comments previously received, HUD invites further comments on this final rule. Comments received, along with experience in implementing the program, will be considered to determine any needed amendments to these regulations.

A finding of inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding of inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with Executive Order 11821.

Accordingly, 24 CFR, Chapter VIII, Part 881 is revised as follows:

**§ 881.102 [Amended].**

(1) In Subpart A, § 881.102.

(a) A definition for neighborhood strategy area (NSA) is inserted between the definitions for "Lower-Income Family" and "New Communities" as follows: Neighborhood Strategy Area (NSA). An area approved by HUD where assistance under Subpart C of this Part will be provided. See § 881.301(c).

## RULES AND REGULATIONS

(2) A table of contents for Subpart C is added as follows:

**Subpart C—Special Procedures for Neighborhood Strategy Areas**

Sec.

- 881.301 . Applicability and scope.
- 881.302 Contract and Budget Authority available for use under this subpart.
- 881.303 Request by local government for approval of NSAs.
- 881.304 HUD review of requests for NSA(s) approval.
- 881.305 Submission of proposals for projects within NSAs.
- 881.306 HUD evaluation and approval of proposals not indicating HUD mortgage insurance.
- 881.307 Section 8 substantial rehabilitation proposals indicating HUD mortgage insurance processing.
- 881.308 Use of contract authority not reserved.
- 881.309 Relocation for section 8 substantial rehabilitation under subpart C.

(3) Subpart C is added as follows:

**Subpart C—Special Procedures for Neighborhood Strategy Areas**

**§ 881.301 Applicability and scope.**

(a) *General.* This Subpart sets forth: (1) The policies and procedures for requests made by units of general local government for approval by HUD of neighborhood strategy areas (NSAs) (see paragraphs (b) and (c) of this section), and (2) the special procedures to be used by local governments and HUD for securing and processing section 8 substantial rehabilitation proposals under this Subpart.

(b) *Eligible applicants.* Units of general local government eligible to participate are those which are applying for or are receiving assistance under the community development block grant (block grant) program pursuant to 24 CFR 570.102 and 570.103.

(c) *Eligible areas.* To be approvable, a proposed NSA must be a residential area where concentrated housing and block grant assisted physical development and public service activities are being, or are to be, carried out in a coordinated manner to serve a common objective or purpose pursuant to a locally developed plan or strategy for neighborhood improvement, conservation or preservation. The area shall be of manageable size and condition, so that block grant and other resources to be committed to the area can reasonably be expected to meet the identified physical development and housing needs within a 5-year period. The local plan (see § 881.303) shall provide for a coordinated program of development activities, such as necessary public improvements facilities and services, private investments, citizen self-help activities and coordination of the efforts of public and private agencies and neighborhood organizations.

(d) *Applicability of subparts A and B.* Provisions of Subpart A are applica-

ble except as modified herein. Section 881.104, which contains preferences for certain types of projects, shall not apply. Sections 881.302 through 881.306 shall apply in lieu of §§ 881.202 through 881.210 of Subpart B for proposals not indicating HUD mortgage insurance under these special procedures. For proposals which indicate HUD mortgage insurance, §§ 881.302-881.305 and § 881.307 shall apply in lieu of §§ 881.202 through 881.208.

(e) *Use of other housing assistance programs.* Other housing assistance programs such as the public housing program, the section 8 existing housing program, and the section 235 program, for which contract authority is not included in this set aside may be necessary in order to accomplish the revitalization strategy. In such cases the Field Office shall consider the approval of projects pursuant to other programs if contract authority is available. Appropriate waivers of the regulations governing such other assisted housing programs will be considered to facilitate their use in, or in support of, the NSA.

**§ 881.302 Contract and budget authority available for use under this subpart.**

(a) *Authority available from initial allocation.* [Reserved]

(b) *Authority made available by Secretary.* HUD will publish a notice in the FEDERAL REGISTER indicating:

(1) The amount of contract authority to be made available under this Subpart and the approximate number of units this authority is expected to assist;

(2) The criteria, including but not limited to the criteria in § 881.304(e), which will be used in selecting NSAs to receive the authority being made available; and

(3) The date by which requests for approval of NSAs pursuant to § 881.303 must be submitted to the appropriate Field Office in order to be considered for assistance.

(c) *Contract and budget authority not reserved.* Contract and budget authority set aside by HUD for local governments under these special procedures not obligated during a fiscal year will be set aside in the subsequent fiscal year if:

(1) Contract and budget authority are available for this purpose; and

(2) HUD determines that the local government is making satisfactory progress in meeting the schedule described in § 881.304(f)(4).

**§ 881.303 Request by local government for approval of NSAs.**

(a) *Request for Approval of One or More NSAs.* A local government may submit to HUD a request for approval of an area as a NSA which is expected to receive concentrated community development activities (e.g., physical

redevelopment, public improvements and services) assisted by the local government's block grant program pursuant to 24 CFR Part 570. The local government may request and HUD may approve more than one NSA within the jurisdiction of the local government.

(b) *Coordination with the Community Development Planning Process.* Eligible applicants are encouraged to submit requests for approval of an NSA simultaneously with their applications for the block grant program. However, requests may be submitted at any other time if a block grant application or amendment which supports the activities in Section 881.303(d) has been approved or is under review by HUD. In either case, the request, while it will reflect part of the local government's community development planning, shall not be considered part of the block grant application.

(c) *A-95 Procedures.* Any request under paragraph (a) of this Section shall be submitted by the local government to the appropriate A-95 Clearinghouse for review and comment prior to or simultaneously with the submission of the request to HUD, unless the request was submitted with the block grant application and has therefore complied with the requirements under 24 CFR Part 570.

(d) *Contents.* A local government request for approval shall include:

(1) A map or maps of the applicant's jurisdiction which clearly identify:

(i) Location of the proposed NSA;

(ii) Existing land uses and major traffic routes in the proposed NSA, and an area at least one block deep outside the perimeter of the NSA;

(iii) Location of shopping, public transportation stops, personal services, social services, and community services either inside or outside the NSA which would serve the NSA.

(2) A description of the proposed NSA's demographic and physical characteristics; an assessment of the extent to which the area currently meets site and neighborhood standards contained in § 881.112 and the environmental standards contained in § 881.114; and an evaluation of the feasibility of rehabilitation given the condition of the buildings in the proposed NSA and the general willingness and financial capability of the property owners to participate in revitalization efforts.

(3) A specific plan which identifies how deficiencies in the neighborhood are to be remedied. This shall include (i) a description of all activities to be undertaken including any activities necessary to correct deficiencies under § 881.112, such as public improvements and services and new public and private construction; (ii) the cost and source of funding of public activities

in the NSA (i.e., the concentrated block grant activities to be carried out and other related support from Federal, State, local and private programs that are not detailed in the block grant application); and (iii) a schedule for completing the activities. If the local government fails to provide the activities identified in this paragraph (d)(3) in conformance with the approved schedule, HUD may withdraw the unreserved portion of the set-aside and proceed in accordance with § 881.309.

(4) A proposed housing revitalization program which includes the following:

(i) The total number of units in the NSA broken down by the number which require no rehabilitation, the number to be demolished, the number to be rehabilitated by tenure type (owner occupied or rental), and the number of new units to be constructed.

(ii) the number of units by size (number of bedrooms), and structure type (e.g., detached, walkup, elevator) for which contract authority under these special procedures is requested, and the estimated amount and expected source of permanent financing for both assisted and nonassisted units to be rehabilitated. Examples of sources of financing or rental subsidy which the local government should consider for all units in the NSA include Community Development Block Grant funds, the 312 loan program, State and local financing programs, private financing, and all of HUD's assisted and mortgage insurance programs. When the local government proposes to use financing provided by a State Housing Finance and Development Agency (HFDA) or by a Public Housing Agency (PHA), either Section 8 or public housing assistance, the request shall include a letter from the appropriate HFDA or PHA stating that the agency agrees to cooperate with the local government in providing financing for projects in the NSA and will submit applications and proposals to HUD in accordance with the local government's housing revitalization program.

(5) A statement describing the means by which residents and property owners of the proposed NSA are and will continue to be involved in the development and execution of the neighborhood strategy. (This statement shall not substitute for the Citizen Participation Certification required by the block grant program.)

(6) A statement that the NSA request was submitted to the A-95 Clearinghouse prior to or simultaneously with the submission of the request to HUD and that the Clearinghouse has been requested to send any comments it has to HUD.

(7) A statement outlining the relocation payments and services which will

be provided in accordance with the requirements of Section 881.309. This statement shall include an estimate of the cost of relocation and shall include the source of funds to be used for this purpose. When the local government proposes to use the Section 8 existing housing program as part of its relocation program, the request shall be accompanied by a letter from the appropriate PHA indicating its willingness to provide such assistance. The statement shall indicate that all services will be provided which are necessary to provide minorities, female heads of household, and other low-income families with the opportunity to take advantage of housing choices outside the areas of minority concentration and low-income areas containing an undue concentration of persons receiving housing assistance.

(8) A description of the administrative structure which the local government proposes to use to implement these special procedures.

(9) A proposed schedule for submission of Proposals.

(10) A statement that indicates that the proposed NSA is eligible pursuant to § 881.301(c).

(11) A statement that the request is consistent with the Local Housing Assistance Plan that has been approved by HUD or submitted to HUD for approval by the local government.

§ 881.304 HUD review of requests for NSA(s) approval.

(a) *Field Office Review.* The Field Office shall review each request to determine whether it meets the following requirements:

(1) The request is consistent with the Local Housing Assistance Plan that has been approved or submitted for approval by the local government.

(2) A sufficient number of units suitable for rehabilitation under this Subpart are located in the area either on sites which conform with the site and neighborhood standards in § 881.112, or on sites which will conform when the activities described in § 881.303(d)(3) are completed. However, when the request for approval of an NSA indicates the intention to use programs other than Section 8 Substantial Rehabilitation, such as Section 8 New Construction or Public Housing, the site and neighborhood standards of those programs shall be applicable.

(3) The area contains no major obstacles to meeting the environmental standards of § 881.114 or any other applicable environmental standards which cannot be remedied by the activities proposed for the area. This review shall not substitute for the environmental review required by § 881.306(b) for each Proposal subsequently submitted.

(4) The relocation payments and services proposed by the local government are acceptable.

(5) The present condition of the neighborhood is such that a suitable living environment is expected to result after implementation of the proposed activities outlined in § 881.303(d)(3) and the provision of housing assistance described in § 881.303(d)(4).

(6) The administrative structure proposed by the local government appears to be appropriate.

(7) The activities proposed to correct deficiencies described in § 881.303(d)(3), the proposed housing revitalization program described in § 881.303(d)(4), and the schedule set forth in § 881.303(d)(9) appear feasible and can reasonably be expected to be completed in the specified time. If the proposed activities require an amendment to the current approved block grant application or to the block grant application under HUD review, the NSA request shall not be approved until the amendment or the application is approved.

(8) The local government's citizen participation program has involved the residents and property owners of the NSA in the development of the strategy and is designed to facilitate their continuing participation in the implementation, monitoring, evaluation and adjustment of the strategy.

(9) The proposed NSA(s) is an eligible area pursuant to Section 881.301(c).

(b) *A-95 Comment.* HUD shall review and consider any comments received from the A-95 Clearinghouse.

(c) *Additional Information and Modifications.* If, during review of the request, HUD finds that additional information is necessary, or that modifications are necessary, it may request such additional information or modifications and/or meet with representatives of the local government to resolve outstanding questions concerning the request.

(d) *Field Office Determination.* The Field Office shall submit those requests it determines acceptable to the Assistant Secretary for Housing for approval. If the Field Office determines that a local government's request is not acceptable, it shall notify the local government of the reasons.

(e) *Review by HUD.* When limited availability of contract and budget authority requires the Assistant Secretary for Housing to select among local governments responding to the Notice, priority shall be given based on the following:

(1) The degree of local public commitment to the program as evidenced by Community Development Block Grant and other Federal, state, or local programs and funds that have been designated for supporting activities;

(2) The extent of existing or proposed private commitment such as pri-

vate financing in the area, local agreements for special wage rates for rehabilitation or other support activities;

(3) The overall quality and feasibility of the program described in the request for approval of an NSA;

(4) The extent to which rehabilitation is expected to be completed without causing permanent displacement;

(5) The demonstrated capacity of the local government to manage housing and community development programs;

(6) The demonstrated capacity of the local government to promote fair housing and equal opportunity for members of minority groups and female heads of household;

(7) The potential of achieving, in the speediest manner possible, the reservations of housing units under this Subpart.

(f) *Notification of Local Governments.* The Assistant Secretary shall notify each Field Office as to which NSAs in its jurisdiction have been approved or disapproved. The Field Office shall notify the local government of this determination. If the request is not approved, the notification shall indicate the reasons. If the request is approved, the notification shall include:

(1) An identification of the approved NSAs and a statement that Section 8 Substantial Rehabilitation Proposals may be processed pursuant to these special procedures.

(2) The amount of contract and budget authority which has been set aside for use in the NSA and the approximate number of units by household type this authority is expected to support, and a statement of the conditions set forth in § 881.302(c).

(3) A statement that, for purposes of making underwriting determinations under the National Housing Act, the improvements pledged in the request shall be considered as though they were now complete and that HUD mortgage insurance will be generally available in the NSA; provided however that each site or property will be reviewed individually for underwriting purposes to determine its eligibility for insurance.

(4) A schedule, mutually agreed upon by the Field Office and local government, for submission of Proposals.

(g) *Notification of Other Agencies.* If the set aside includes contract authority for projects to be financed by an HFDA or owned by a PHA, the notification shall indicate the amount of such contract authority. Additionally, the Field Office shall notify the appropriate HFDA or PHA of the set-aside and indicate that the authority is only available for use in the NSA in accordance with the local government's housing revitalization plan. The HFDA or PHA shall then follow the regular procedures in obtaining

applications and proposals; however, the concurrence of the local government must be obtained on every application or proposal submitted to HUD pursuant to the set-aside.

**§ 881.305 Submission of proposals for projects within NSAs.**

(a) *Request for Proposals.* After the notification by HUD of the availability of contract and budget authority pursuant to § 881.304(f) has been received by the local government, the local government shall invite (through negotiation, advertisement, or other means), the preparation and submission of Proposals for projects within the designated NSA. The local government shall publish a notice in a newspaper of general local circulation which sets forth the number of units by household type available and the boundaries of the NSA. This notice shall also describe how the local government (and if applicable, the HFDA and/or PHA) will solicit and process Proposals.

(b) *Basic Information.* The local government shall provide basic information to interested Owners and developers concerning the special procedures of this Subpart including: (1) A copy of these regulations; (2) where Minimum Design Standards for Rehabilitation for Residential Properties or HUD Minimum Property Standards and other applicable regulations, standards, and forms, may be obtained; (3) requirements and information necessary to enable the interested parties to submit a Proposal; and (4) the assistance the local government will provide to Owners. The local government shall also provide information to interested parties about how to obtain financing, other rental assistance, or mortgage insurance which the local government has determined will be necessary to achieve the revitalization of the NSA.

(c) *Assistance in Development and Review of Proposals by Local Government.* The local government shall, to the extent necessary to assure adequate Owner interest and viable Proposals, assist Owners in the preparation of Proposals. The local government shall review comprehensively all Proposals to make the certifications required by § 881.305(g). The local government shall transmit to HUD for review section 8 Substantial Rehabilitation Proposals it believes are approvable.

(d) *Local Assurances.* The local government shall assure that the Proposals processed under these special procedures will not collectively require contract and budget authority in excess of the amount set aside in the notification pursuant to § 881.304(f).

(e) *Timely Submissions.* The local government shall assure that Proposals are prepared and submitted in accordance with the agreed upon sched-

ule provided for in § 881.304(f)(4). If approvable Proposals sufficient to use the contract and budget authority set aside for use in NSA(s) have not been submitted by the established deadline, including any extensions approved by the field office, HUD shall follow the procedures of § 881.308 concerning the use of residual contract authority.

(f) *Submission and Review.* Submission and review requirements for section 8 Substantial Rehabilitation Proposals requesting simultaneous processing for HUD mortgage insurance are found in § 881.307. Proposals not requesting simultaneous HUD mortgage insurance processing shall include the following:

(1) The address(es) of the property(ies) proposed to be rehabilitated.

(2) The identity of the Owner(s), rehabilitator(s) (if known), and architect(s) (if applicable and identity is known); the officials, principal members, shareholders, investors, and other parties having substantial interest, and the prior participation of each in HUD programs on the prescribed forms; and a disclosure by each party of any possible conflict of interest which would be in violation of the ACC, Agreement, or Contract.

(3) A description of the property(ies) as is, including number and type of structures, number of stories, structural system, number of units by size (number of bedrooms), living area and composition of each size of unit, special amenities or features, if any; and sketches for the interior, showing dimensions. If appropriate, typicals may be provided.

(4) A description of the proposed rehabilitation covering each basic element (e.g., roof, exterior walls, porches and steps; interior walls, ceilings and floors; kitchen and bathroom facilities and equipment; plumbing, heating and electrical equipment; landscaping; etc.) indicating the nature of the work to be done on each element. If alteration, renovation, or remodeling is indicated a description of such work and sketches showing the layout after completion of rehabilitation shall be submitted. If appropriate, typicals may be provided.

(5) The number of units by unit size (number of bedrooms) and type of occupancy (elderly or handicapped or family) proposed for the property after the completion of rehabilitation.

(6) A description of the existing utility combination, whether a change to a different combination is proposed, and, if so, a description of the new utility combination.

(7) A statement as to whether the services of a registered architect will be utilized for preparation of final working drawings and specifications.

(8) The proposed Contract Rent for each unit, by size and structure type.

(9) The equipment, utilities and services to be included in the proposed Contract Rent and those utilities and services not so included. For each utility and service not included in the proposed Contract Rent, an estimate of the average monthly cost to occupants for the first year of occupancy by size and structure type.

(10) The proposed term of each Contract (including renewals), and justification for such term in accordance with § 881.109.

(11) Whether the proposed rehabilitation will displace site occupants. If so, the Proposal shall state the number of families, individuals, and business concerns to be displaced (identified by race or minority group status and whether they are owners or renters). See § 881.309 for relocation requirements.

(12) Submission of evidence of management capability and a proposed management plan and a certification by the Owner and the managing agent, if any, in a format acceptable to HUD; if the proposed project is for fewer than 15 units, evidence of capability of providing necessary management and maintenance services. If the Owner proposes to contract with another entity for management and/or maintenance services for the project, a copy of the proposed contract(s) shall be included.

(13) A signed certification that the Owner intends to comply with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, Executive Order 11246 and Section 3 of the Housing and Urban Development Act of 1968, and that the Owner will take affirmative action to provide the opportunity to apply for units in the proposed projects to persons expected to reside in the community as a result of current or planned employment as indicated in the Local Housing Assistance Plan.

(14) If the proposed project consists of five or more units, submission of an Affirmative Fair Housing Marketing Plan together with a statement of the affirmative actions the Owner expects to take to provide the opportunity to apply for units in the proposed project to persons expected to reside in the community as a result of current or planned employment as indicated in the Local Housing Assistance Plans.

(15) Submission of the form of Lease the Owner proposes to use. The form of lease shall be in accordance with § 881.219.

(16) The anticipated time required for completion of the rehabilitation after the Agreement is signed. If the rehabilitation is to be completed in stages, an identification of the units comprising each stage and the estimated dates for commencement and completion of each stage shall be provided.

(17) The proposed method (e.g., conventional mortgage, Farmers Home, HUD mortgage insurance, or bonds) and anticipated terms of financing (e.g., interest rates, discounts, amortization plan and term) and evidence of review and interest by a lender, bond underwriter or counsel, or similar evidence that financing would likely be available should the Proposal be selected. Such evidence of financing is not required if the Owner proposes to utilize HUD mortgage insurance (see § 881.307) or the FmHA Section 515 Rural Rental Housing Program. In such cases, either the prescribed HUD form or evidence that a preapplication has been submitted to the FmHA shall be submitted with the Proposal. A statement shall be included in all Proposals as to whether the Owner intends to pledge or offer the Agreement and/or Contract as security for any loan or obligation (See § 881.115(b)).

(g) *Required Information.* Each Proposal not requesting simultaneous processing for HUD mortgage insurance shall be accompanied by the following information from the local government:

(1) A certification by the chief executive officer of the local government that (i) the property proposed for Substantial Rehabilitation is within the designated NSA; and (ii) the Proposal is consistent with the requirements and restrictions of the approved Local Housing Assistance Plan and the approved NSA.

(2) A certification that the Owner has title to the property, an option on the property or other legal commitment for the property.

(3) If demolition is proposed for any structures, a certification that the proposed reuse is consistent with local zoning or other land use codes, ordinances, or regulations and will promote the restoration and revitalization of the neighborhood.

(4) A certification that the proposed rehabilitation is permissible under applicable zoning, building, housing and other local codes, ordinances, or regulations.

(5) Identification of properties included in, or eligible for inclusion in, the National Register of Historic Places within the area affected by the Proposal and information on the Proposal's effect on such properties to comply with the National Historic Preservation Act (16 USC SS470 as amended by Pub. L. 94-422), the Procedures for the Protection of Historic and Cultural Properties (36 CFR Part 800), the Archeological and Historical Preservation Act of 1974 (Pub. L. 93-291), and Executive Order 11593, "Protection and Enhancement of the Cultural Environment."

(h) *Other housing programs.* Proposals for housing assistance programs

other than Section 8 Substantial Rehabilitation under this subpart which are identified by the local government as part of its strategy shall be submitted and processed in accordance with applicable program regulations and issuances.

§ 881.306 HUD evaluation and approval of proposals not indicating HUD mortgage insurance.

(a) *Evaluation of proposals.* Each Proposal shall be evaluated by HUD to determine whether:

(1) The Proposal and the certifications submitted by the local government contain all the elements required by § 881.305 (f) and (g).

(2) The proposed Contract Rents plus any Allowances for Utilities and Other Services do not exceed the Fair Market Rent limitations pursuant to § 881.108(a).

(3) The proposed Contract Rents are reasonable pursuant to § 881.108(b).

(4) The proposed term of the Contract (including renewals) is acceptable in accordance with § 881.109.

(5) The form of lease meets the requirements of § 881.219.

(6) The previous experience of the Owner and other key participants in development and management is acceptable.

(7) The management capability of the Owner and/or his managing agent, the proposed management plan, and the proposed management agreement/contract(s) are acceptable.

(8) The Affirmative Fair Housing Marketing Plan is acceptable.

(9) The provisions for relocation are acceptable (see § 881.309).

(10) The Proposal as a whole, including the rehabilitation plan and design, will result in decent, safe, and sanitary housing.

(11) The nature and extent of the rehabilitation are such that the services of a registered architect must be used.

(12) The proposed method and terms of financing are acceptable (see also §§ 881.115 and 881.125).

(13) The proposed utility combination is acceptable.

(14) There are no apparent conflicts of interest which would be in violation of the Agreement, Contract, or ACC.

(b) *Environmental review.* HUD will conduct an environmental review of the Proposal in accordance with HUD procedures.

(c) *A-95 comments.* HUD shall review and consider any comments about the Proposal received from the A-95 Clearinghouse.

(d) *Clarification or modification.* HUD may request clarification of individual items, additional information, or modification of the Proposal including substitution of alternate properties.

(e) *HUD review of local government certifications.* Generally, in reviewing

any local government certification required by this Part, HUD shall accept the certification as correct. However, if HUD has substantial reason to question the correctness of any certification, HUD shall promptly bring the matter to the attention of the local government and ask the local government review its findings. After such review HUD will act in accordance with the judgment or evaluation of the local government unless HUD determines that the certification is not supported by available evidence.

(f) *HUD determination.* HUD shall notify the local government and the Owner that the Proposal is:

(1) *Approved.* This notification shall include the statements required by § 881.208(h)(1) (i), (ii), (iii), (iv), (v), and (vi). 881.208(h) (2) and (3) shall apply. Following approval the Proposal shall be deemed to be a Final Proposal within the meaning of § 881.211, et seq. All further actions with regard to Proposals approved pursuant to this section shall be in accordance with Subpart B of these regulations starting with § 881.211.

(2) *Not approved.* The notification shall indicate the reasons for disapproval, and, where appropriate, that the local government may submit substitute Proposals to use remaining contract and budget authority.

(g) *Clearinghouse notification.* In all cases, the appropriate A-95 Clearinghouse shall be notified by HUD of its final action.

§ 881.307 Section 8 substantial rehabilitation proposals indicating HUD mortgage insurance processing.

(a) *Concurrent processing.* Where an Owner indicates that he intends to utilize HUD mortgage insurance, the following shall apply:

(1) *Preapplication meetings.* Proposals requesting simultaneous processing for HUD mortgage insurance will not be accepted from the local government unless a preapplication meeting has been held in the Field Office. The local government will be advised of any major obstacles to approval of HUD mortgage insurance which are discovered by the Field Office as a result of the meeting.

(2) *Initial submission requirements:*

(i) The Owner's application for a Feasibility Letter on the prescribed form with appropriate exhibits.

(ii) Documentation required from the Owner by § 881.305(f) (2), (6), (9), (10), (11), (13), (15) and (16).

(iii) Certifications from the local government required by § 881.305(g) (1), (3), (4), and (5).

(3) *Evaluation of submission.* Each submission shall be evaluated by HUD to determine:

(i) The acceptability and feasibility of the application for HUD mortgage insurance. For purposes of making un-

derwriting determinations for all HUD mortgage insurance programs, the improvements pledged in the request shall be considered as though they were now complete.

(ii) The acceptability of the Proposal for Section 8 assistance in accordance with § 881.306(a) (1), (2), (4), (5), (6), (9), (10), (11), and (14).

(iii) The reasonableness of the proposed Contract Rents pursuant to § 881.108(b).

(4) *HUD determination.* HUD shall notify the local government and the Owner that the submission is:

(i) *Approved.* A notification of Proposal approval for Section 8 assistance in accordance with § 881.208(h) shall be transmitted simultaneously with the feasibility letter.

(ii) *Approvable with modifications.* HUD may issue a Letter which conditions approval of the Proposal, for mortgage insurance and/or Section 8 assistance, on correction of specified deficiencies including the substitution of alternative property(ies).

(iii) *Not approved.* If the Proposal is not approved, a Letter shall be sent indicating the reasons for such disapproval.

(b) *Delayed mortgage insurance processing.* If an Owner does not indicate in the Proposal an intent to utilize HUD mortgage insurance and applies for HUD mortgage insurance after approval by HUD of the Proposal for Section 8 assistance, he risks (1) having the Proposal rejected for HUD mortgage insurance, and (2) having lower rents approved under the mortgage insurance program than the rents set forth in the Proposal approved under this Subpart.

(c) *Subsequent processing.* Following approval of a Proposal involving HUD mortgage insurance, subsequent processing shall be in accordance with Subpart B of these regulations starting with Section 881.209.

§ 881.308 Use of Contract Authority Not Reserved.

If Proposals containing a sufficient number of units to utilize the contract and budget authority set aside for use in an NSA under this Subpart are not submitted in accordance with the schedule provided in § 881.304(f)(4) or any approved extensions thereto, or if an approved Proposal fails to result in an Agreement, the Field Office shall either:

(a) Authorize the local government to submit other Proposals for projects within the approved NSA(s) to utilize the remaining contract and budget authority; or

(b) Issue a NOFA for the allocation area in which the NSA is located to utilize the remaining contract and budget authority; or

(c) If a NOFA has already been published for that allocation area, process

Proposals submitted in response thereto, but not selected, including those to which the deadline described in Section 881.203(c) (4) and (5) or does not apply; or

(d) Reallocate the unused contract and budget authority to another allocation area or to another local government for use in an NSA.

§ 881.309 Relocation for Section 8 substantial rehabilitation under subpart C.

(a) *Applicability of uniform act.* Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) applies to certain displacements occurring as a result of a PHA's acquisition or order to vacate real property, issued in connection with acquisition, for a project. HUD regulations governing displacements under the Uniform Act are set forth at 24 CFR Part 42. Any family, individual, business, farm or nonprofit organization occupying a property to be rehabilitated pursuant to this Subpart and who meets the definition of a "displaced person," as defined in 24 CFR 42.20(d), shall be provided relocation payments and assistance in accordance with 24 CFR part 42, as modified by paragraphs (c) through (g) for residential tenants of this section including the obligation placed on the local government.

(b) *Tenants displaced by private-owner or by PHA rehabilitation without acquisition.* Although the Uniform Act does not apply to the displacement of tenants as a result of acquisition by a private developer or as a result of rehabilitation by a PHA without acquisition for a Section 8 project, HUD has determined that any family, individual, business, farm, or nonprofit organization that is a tenant (not an owner-occupant) occupying a property to be rehabilitated pursuant to this Subpart on the date the Proposal is submitted to HUD (see §§ 881.305 and 881.307) and who is thereafter relocated to move, shall be eligible for relocation payments and assistance to be determined on the same basis as provided by 24 CFR Part 42, as modified by paragraphs (c) through (h) of this section, as if the tenant were a "displaced person" within the meaning of the Uniform Act. For purposes of the regulations at 24 CFR Part 42, the local government's transmittal of the Proposal to HUD shall be deemed to be the "initiation of negotiations."

(c) *Preliminary notice to each residential tenant.* No later than 30 days after the transmittal of any Proposal to HUD, the local government shall issue to each residential tenant occupying the property a written notice which:

(1) Informs the tenant that a Proposal for assistance under this Subpart has been transmitted to HUD and the date thereof;



(2) Insofar as possible, informs the tenant whether permanent relocation will be required if the Proposal is approved;

(3) States that if the tenant moves after the date the Proposal was submitted to HUD for any reason, except after being issued a notice of displacement as described in paragraph (e) of this section, the tenant will not be entitled to relocation payments or other assistance provided under/or determined in accordance with 24 CFR Part 42, as modified by this section;

(4) Indicates that as soon as practical, but not later than 60 days after the HUD notification of the approval of the Proposal, the tenant will receive an appropriate notice as specified under paragraph (d) or (e) of this section. The provisions of the notices that are referred to shall be generally described;

(5) Generally describes the relocation payments and other assistance for which the tenant would be eligible, if required to relocate; and

(6) Informs the tenant of the applicable policies contained in paragraph (f)(1) and (f)(2) of this section.

(d) *Notice of Right to Continue in Occupancy.* No later than 60 days after the HUD notification of the approval of the Proposal the local government shall furnish each residential tenant who will not be displaced, a written notice of the tenant's right to continue in occupancy. The notice shall contain the following conditions:

(1) The tenant shall have the right to lease and occupy a decent, safe, and sanitary dwelling which is either the current dwelling or a comparable dwelling located within the same building or nearby building located on the same site, for a continuous period of at least four years. The four-year period shall begin on the date of HUD notification of the approval of the Proposal, or the date the dwelling is placed in decent, safe, and sanitary condition, or the termination date of any required temporary relocation, whichever is later;

(2) If the tenant is an "eligible" family as defined in Section 881.102 and 24 CFR Part 812, the amount of rent payable by the tenant shall be determined in accordance with 24 CFR Part 889 and any necessary subsidy shall be provided pursuant to Section 881. If the tenant does not qualify as an eligible family as defined in Section 881.102 and 24 CFR Part 812, the amount payable by the tenant for rent and utilities and other services shall not exceed 25 percent of monthly income, which income shall be calculated in accordance with 24 CFR Part 889 and any necessary subsidy shall be provided by the local government.

(3) The tenant shall not be required to move from the dwelling units other than for cause unless the move is nec-

essary to permit rehabilitation or demolition. If a move is required:

(i) Not more than one temporary relocation by the tenant shall be required;

(ii) The temporary relocation, if any, shall not exceed twelve months in duration;

(iii) A decent, safe, and sanitary dwelling shall be available to the tenant for the period of any temporary relocation; and

(iv) The local government shall pay actual reasonable out-of-pocket expenses, including any moving costs or increase in monthly housing costs, incurred by the tenant in connection with the move, any temporary relocation, or both.

(4) If the tenant is required to vacate the dwelling during the four-year period for any reason other than for cause, or if any of the commitments to the tenant under this notice are not met, the tenant shall automatically be deemed to have been issued a notice of displacement as described in paragraph (e) of this section and to be entitled to relocation payments and other relocation assistance available to displaced persons provided under in 4 CFR Part 42, as modified by this section.

(e) *Notice of Displacement.* Not later than 60 days after the HUD notification of the approval of the Proposal, the local government shall issue a written notice of displacement to each residential tenant to be displaced. The notice shall state that if the tenant moves or moves personal property from the property on or after the date of HUD notification of approval of the Proposal, the tenant will be entitled to certain relocation payments and other assistance which shall be described, including the maximum allowable dollar amount or range of each payment for which the tenant will apparently be eligible, the conditions of eligibility, and the procedures for obtaining the payment(s).

(f) *Automatic Notice of Displacement.* (1) If a tenant is not issued a preliminary notice as described in paragraph (c) of this section within 30 days after the transmittal of the Proposal to HUD, the tenant shall be deemed to have been issued a notice of displacement effective 31 days after the transmittal of the Proposal to HUD, if such Proposal is later approved by HUD. However, if the local government later issues a preliminary notice to a tenant who has not yet moved and agrees to reimburse the tenant for any expenses incurred to satisfy any binding contractual relocation obligations entered into during the period in which the notice of displacement was in effect, such automatic notice of displacement is cancelled.

(2) If a tenant is not issued a written notice of displacement or a notice of

right to continue in occupancy within 60 days after the date of the HUD notification of the approval of the Proposal, the tenant shall be deemed to have been issued a notice of displacement effective on the date of the HUD notification of the approval of the Proposal.

(g) *Tenants Continuing in Occupancy.* The local government shall take such steps as may be necessary to insure that no tenants who continue in occupancy under the provisions of this section are subjected to an unreasonable change in the character of their immediate environment without being given the opportunity to move and qualify for relocation assistance as a displaced person. For example, an elderly tenant shall not be subjected without alternatives to a sharp increase in the number of children occupying nearby units.

(h) *Section 8 Assistance to Tenants Displaced by Private-Owner.* If a residential tenant who has been displaced by an Owner pursuant to paragraph (b) of this section has voluntarily selected a replacement rental dwelling unit, the local government shall provide a rental assistance payment as described in 24 CFR Part 42, unless a PHA provides a Certificate of Family Participation under the Section 8 Housing Assistance Payments Program Existing Housing 24 CFR Part 882. The latter can only occur when the displaced family or individual is eligible to participate in that program, the replacement rental dwelling unit meets the requirements of that program, and the landlord of the replacement rental dwelling unit is willing to participate in that program.

(i) *Nonresidential tenants.* The modifications in paragraphs (c) through (h) of this section do not apply to the displacement of any business, farm, or nonprofit organization who has been displaced as a result of an action described in paragraph (a) of this section. Such businesses, farms, or nonprofit organizations shall be provided relocation payments and other assistance in accordance with the regulations of 24 CFR Part 42 and the policies and procedures contained in HUD Handbook 1371.1 REV, Relocation Policies and Procedures.

(j) *Manner of Notices.* Any notice required under this section shall be personally served, receipt documented, or sent by certified or registered first-class mail, return receipt requested.

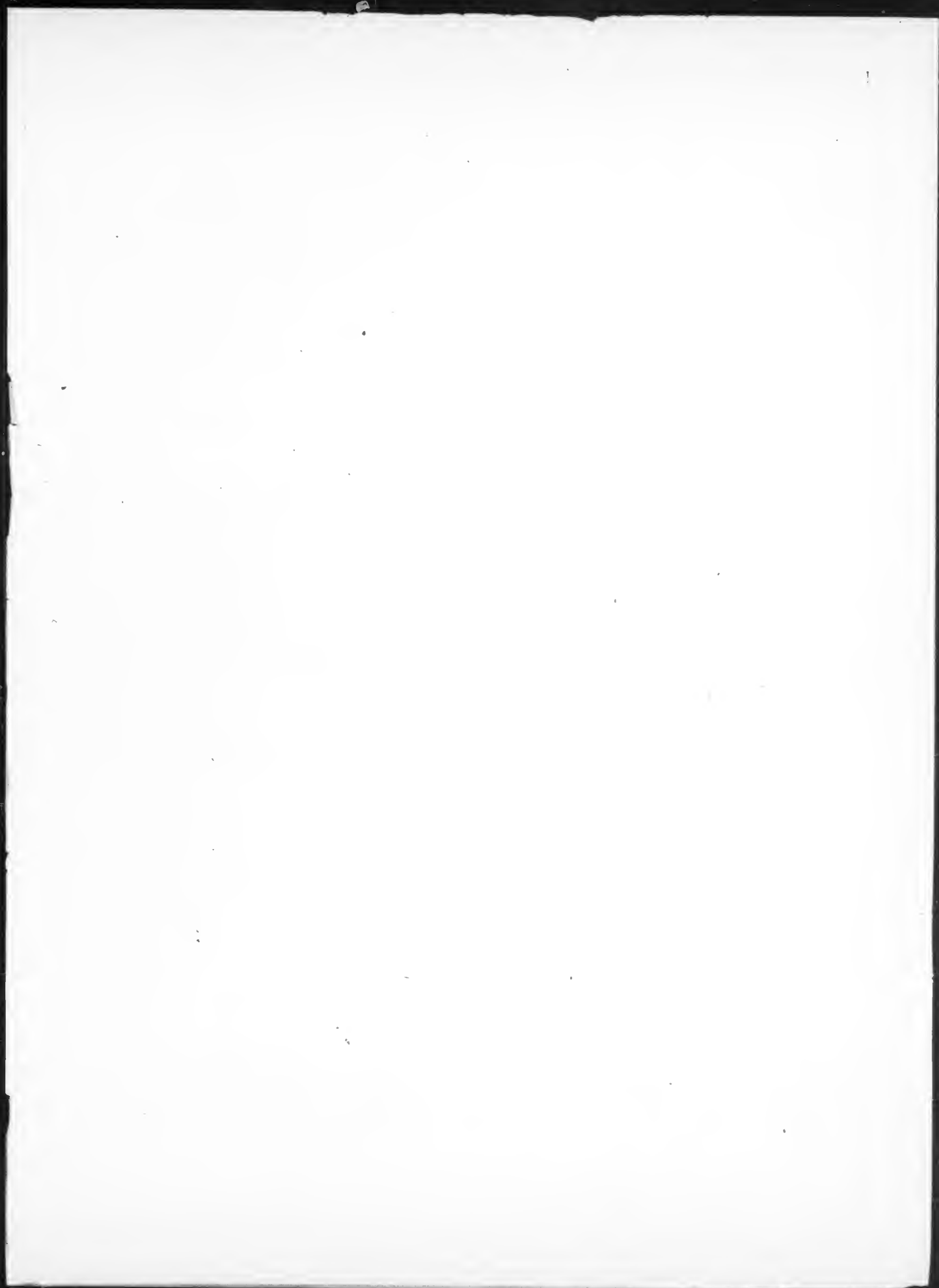
(k) *Responsibility for relocation payments and assistance.* The local government is responsible for providing the relocation payments and assistance described in this section from funds other than those provided under these special procedures.

**RULES AND REGULATIONS**

Issued at Washington, D.C., January  
25, 1978.

LAWRENCE B. SIMONS,  
*Assistant Secretary for Housing—Federal Housing Commission-  
sioner.*

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