Section 8 conflict of interest prohibitions published at 45 FR 54143, August 14, 1980 and the redelegation of authority for the issuance of waivers of Office of Public and Indian Housing Directives published at 34 FR 8266, February 18, 1994. It does not supersede the authority regarding the waiver of conflict of interest provisions for the public housing and Indian Housing programs.

The authority to waive the conflict of interest includes the contracts for the Section 8 Rental Certificate, Rental Voucher and Moderate Rehabilitation Programs (exclusive of Moderate Rehabilitation Single Room Occupancy Program.)

This notice relates only to the waiver of Public and Indian Housing directives and Section 8 conflict of interest prohibitions and does not grant authority to waive contractual provisions. This redelegation does not include authority to waive statutes, regulations or contracts and does not confer authority to waive the requirement that Housing Authorities (HAs) must use forms required by HUD Headquarters. Further, this redelegation does not confer authority to waive the requirement that HAs maintain program accounts in accordance with HUD regulations, or to waive provisions in Notices of Funding Availability.

EFFECTIVE DATE: September 21, 1995.

FOR FURTHER INFORMATION CONTACT: With respect to conflict of interest prohibitions, contact Madeline Hastings, Director, Office of Rental Assistance, Department of Housing and Urban Development, Room 4226, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708-1842. With respect to directives, contact Mildred M. Hamman, Directives Management Officer, Office of Public and Indian Housing, Department of Housing and Urban Development, Room 4244, 451 7th Street, SW., Washington, DC, telephone (202) 708-0846. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989) (HUD Reform Act), amended section 7 of the Department of Housing and Urban Development Act (42 U.S.C. 3535 (HUD Act) by adding section 7(q), governing circumstances upon which the Department may issue waivers of regulations and handbooks. According to section 7(q)(2), only an individual of Assistant Secretary rank or the equivalent may waive a regulation. This redelegation of authority does not

include the authority to waive regulations.

On April 22, 1991, at 56 FR 16337, HUD published a Statement of Policy implementing Section 106 of the HUD Reform Act. The new notice stated that although new section 7(q)(4) of the HUD Act addressed only "handbooks", HUD would apply this term to all Departmental directives in order to give section 7(q)(4) "the widest possible coverage." Therefore, the term "directive" was defined in the notice as follows:

Directives means a Handbook (including a change or supplement), notice, interim notice, special directive, and any other issuance that the Department may classify as a directive.

The Policy Statement also indicated that the authority to waive directives may be delegated to any officer or employee in the issuing official's organization, as well as to any officer or employee in a field or regional office.

With respect to handbooks, section 7(q)(4) states that a waiver of a provision of a handbook must:

(A) Be in writing;

(B) Specify the grounds for approving the waiver; and

(C) Be maintained in indexed form and made available for public inspection for not less than the 3-year period beginning on the date of the waiver.

The current process of reviewing requests to waive directives in Headquarters frequently adds an unnecessary layer to a procedure that can be adequately carried out at the HUD Field Office level. Officials in the HUD Field Offices are often best situated to assess and react promptly to requests for relief from administrative requirements of general application, where specific circumstances, unanticipated under the directive, warrant a departure from the ordinary standard.

Therefore, in keeping with the objectives of the Secretary of Housing and Urban Development to improve the efficiency and enhance the productivity of the Department, the Assistant Secretary for Public and Indian Housing is redelegating the authority to waive directives and Section 8 conflict of interest prohibitions.

Pursuant to 24 CFR 0.735–104 and 0.735–106 and HUD's Supplemental Standards of Conduct regulation, only the General Counsel may waive violations of HUD's Standards of Conduct regulations, including conflict of interest provisions. The General Counsel may not redelegate the authority to issue waivers of the Standards of Conduct for HUD employees. The Field Offices may not grant waivers for conflicts of interest for HUD employees under program contracts or 24 CFR 982.161. Therefore, this redelegation does not grant any authority to waive HUD's Standards of Conduct regulations, including waiving conflicts of interest for HUD employees.

For example, pursuant to 24 CFR 0.735–204(4), with certain exceptions, a HUD employee may not own a financial interest in any Section 8 subsidy provided to or on behalf of a tenant of property owned by the employee. If a HUD employee seeks a waiver to obtain or retain an interest in a Section 8 subsidy, the General Counsel must grant or deny the employee's request. The Field Offices do not have authority to grant or deny the request.

All Office Directors and Administrators to whom waiver authority for directives and/or conflicts of interest prohibitions are hereby redelegated are cautioned against the development of local requirements, processes, or procedures to replace those that are waived, which would counteract the intent of the established waiver process or the intent of any HUD regulation.

Accordingly, the Assistant Secretary for Public and Indian Housing redelegates as follows:

Section A. Authority to waive directives

(1) The Assistant Secretary for Public and Indian Housing redelegates to HUD State and Area Office Directors of the Offices of Public Housing and to the Administrators of the Field Offices of Native American Programs (waiver officials) the authority to waive Office of Public and Indian Housing directives for Public Housing, Indian Housing and Section 8 programs.

(2) Paragraph (1) does not grant authority to waive:

a. Any statutory or regulatory provision.

b. Program contracts and other forms required by HUD Headquarters.

c. A directive that requires a HUD Office action;

d. Requirements to maintain complete and accurate accounts and other records for a program in accordance with HUD requirements and in the form required by HUD.

e. Reporting requirements.

f. Provisions in a Notice of Funding Availability and associated processing instructions;

g. Any actual or potential conflict of interest on the part of a HUD employee.