

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**24 CFR Part 92**

[Docket No. FR-3962-I-01]

RIN 2501-AC06

Office of the Secretary; HOME Investment Partnerships Program; Streamlining Interim Rule

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule streamlines HUD's regulations for the HOME Program by eliminating provisions that are redundant of statutes or are otherwise unnecessary. This rule will make the HOME Program regulations more concise.

EFFECTIVE DATE: April 5, 1996.

FOR FURTHER INFORMATION CONTACT:

Mary Kolesar, Director, Program Policy Division, Office of Affordable Housing Programs, Room 7162, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone number (202) 708-2470. (This is not a toll-free number). A telecommunications device for hearing- and speech-impaired persons (TDD) is available at 1-800-877-8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: On March 4, 1995, President Clinton issued a memorandum to all Federal departments and agencies regarding regulatory reinvention. In response to this memorandum, the Department of Housing and Urban Development conducted a page-by-page review of its regulations to determine which can be eliminated, consolidated, or otherwise improved. HUD has determined that the regulations for the HOME Investment Partnerships Program can be improved and streamlined by eliminating unnecessary provisions.

Several provisions in the regulations repeat statutory language from the Cranston-Gonzalez National Affordable Housing Act (NAHA). It is unnecessary to maintain statutory requirements in the Code of Federal Regulations (CFR), since those requirements are otherwise fully accessible and binding. Furthermore, if regulations contain statutory language, HUD must amend the regulations whenever Congress amends the statute. Therefore, this rule will remove repetitious statutory language and replace it with a citation to the specific statutory section for easy reference.

Several other provisions in the regulations apply to more than one program, and therefore HUD repeated these provisions in different subparts. This repetition is unnecessary, and updating these scattered provisions is cumbersome and often creates confusion. Therefore, this rule will consolidate these duplicative provisions, maintaining appropriate cross-references for the reader's convenience.

Some provisions in the regulations are now obsolete. For instance, this rule removes reference to obsolete regulations regarding Cost Effective Energy Standards in subpart F. These guidelines were found in 24 CFR part 39, which has been deleted but will be made available as standards for participating jurisdictions.

Justification for Interim Rulemaking

HUD generally publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking in 24 CFR part 10. However, part 10 provides for exceptions to the general rule if the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest" (24 CFR 10.1). HUD finds that good cause exists to publish this rule for effect without first soliciting public comment. This rule merely removes unnecessary regulatory provisions and does not establish or affect substantive policy. Therefore, prior public comment is unnecessary. This rule is being published as an interim rule and not as a final rule because the HOME program regulation at 24 CFR part 92 has not yet been issued as a final rule.

Other Matters**Regulatory Flexibility Act**

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule merely streamlines regulations by removing unnecessary provisions. The rule will have no adverse or disproportionate economic impact on small businesses.

Environmental Impact

This rulemaking does not have an environmental impact. This rulemaking simply amends an existing regulation by consolidating and streamlining

provisions. It does not change the environmental review procedures or the physical impact of the program or the projects assisted under the regulations being amended. Findings of No Significant Impact with respect to the environment were made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) at the time of development of regulations implementing the HOME Investment Partnerships Program, and regulations removing 24 CFR part 39. Those findings remain applicable to this rule, and are 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.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that this rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. No programmatic or policy changes that would affect the relationship between the Federal Government and State and local governments will result from this rule.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this rule will not have the potential for significant impact on family formation, maintenance, or general well-being, and thus is not subject to review under the Order. No significant change in existing HUD policies or programs will result from promulgation of this rule.

The Catalog of Federal Domestic Assistance Number for the HOME Program is 14.239.

List of Subjects in 24 CFR Part 92

Administrative practice and procedure, Grant programs—housing and community development, Grant programs—Indians, Low and moderate income housing, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, part 92 of title 24 of the Code of Federal Regulations is amended as follows:

PART 92—HOME INVESTMENT PARTNERSHIPS PROGRAM

1. The authority citation for part 92 is revised to read as follows:

Authority: 42 U.S.C. 3535(d) and 12701–12839.

2. Section 92.1 is revised to read as follows:

§ 92.1 Overview.

This part implements the HOME Investment Partnerships Act (the HOME Investment Partnerships Program). In general, under the HOME Investment Partnerships Program, HUD allocates funds by formula among eligible State and local governments to strengthen public-private partnerships to expand the supply of decent, safe, sanitary, and affordable housing, with primary attention to rental housing for very low-income and low-income families. Generally, HOME funds must be matched by nonfederal resources. State and local governments that become participating jurisdictions may use HOME funds to carry out multi-year housing strategies through acquisition, rehabilitation, and new construction of housing, and tenant-based rental assistance. Participating jurisdictions are able to provide assistance in a number of eligible forms, including loans, advances, equity investments, interest subsidies and other forms of investment that HUD approves.

3. In § 92.2, the definition “Act” is added in alphabetical order, to read as follows:

§ 92.2 Definitions.

Act means the HOME Investment Partnerships Act at title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, 42 U.S.C. 12701 *et seq.*

* * * * *

4. Section 92.4 is revised to read as follows:

§ 92.4 Suspension of requirements for disaster areas.

HUD may suspend HOME statutory requirements in connection with

disaster areas in accordance with section 290 of the Act.

§ 92.52 [Removed]

5. Section 92.52 is removed.

§ 92.100 [Removed and reserved]

6. Section 92.100 is removed and reserved.

§ 92.212 [Removed and reserved]

7. Section 92.212 is removed and reserved.

8. Section 92.213 is revised to read as follows:

§ 92.213 Development of model programs.

HUD will develop and make available model programs in accordance with section 213 of the Act.

9. In § 92.214, paragraph (a)(2) is revised to read as follows:

§ 92.214 Prohibited activities.

(a) * * *

(2) Provide tenant-based rental assistance for the special purposes of the existing section 8 program in accordance with section 212(d) of the Act.

* * * * *

10. Section 92.215 is revised to read as follows:

§ 92.215 Limitation on jurisdictions under court order.

Limitations on the use of HOME funds in connection with litigation involving discrimination or fair housing are set forth in section 224 of the Act.

§ 92.251 [Amended]

11. Section 92.251 is amended by removing the last sentence in paragraph (a).

12. Section 92.302 is revised to read as follows:

§ 92.302 Housing education and organizational support.

(a) *General.* HUD is authorized to provide education and organizational support assistance in conjunction with HOME funds made available to community housing development organizations in accordance with section 233 of the Act.

(b) *Limitations.* Contracts under this section with any one contractor for a fiscal year may not—

(1) Exceed 20 percent of the amount appropriated for this section for such fiscal year; or

(2) Provide more than 20 percent of the operating budget (which may not include funds that are passed through to community housing development organizations) of the contracting organization for any one year.

(c) *Single-state contractors.* Not less than 40 percent of the funds made available for this section in an appropriations Act in any fiscal year must be made available for eligible contractors that have worked primarily in one state. HUD shall provide assistance under this section, to the extent applications are submitted and approved, to contractors in each of the HUD geographic regions.

(d) *Notice of funding.* HUD will publish a notice in the Federal Register announcing the availability of funding under this section, as appropriate. The notice need not include funding for each of the eligible activities, but may target funding from among the eligible activities.

§ 92.358 [Removed and reserved]

13. Section 92.358 is removed and reserved.

14. Section 92.400 is revised to read as follows:

§ 92.400 Coordinated Federal support for housing strategies.

(a) *General.* HUD will provide assistance to increase the capacity to identify and meet the needs to increase the supply of affordable housing in accordance with subtitle C of the Act.

(b) *Notice of funding.* HUD will publish a notice in the Federal Register announcing the availability of funding under this section as appropriate.

Dated: February 22, 1996.

Henry G. Cisneros,

Secretary.

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