

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**24 CFR Part 585**

[Docket No. FR-4038-N-02]

RIN 2506-AB79

Office of the Assistant Secretary for Community Planning and Development; Opportunities for Youth: Youthbuild Program Streamlining; Amendment of Interim Rule

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

ACTION: Final rule.

SUMMARY: This final rule amends the interim rule which amended the regulations for the Youthbuild Program to define administrative costs for which Youthbuild funds may be expended. This final rule also makes streamlining amendments to part 585.

EFFECTIVE DATE: November 4, 1996.

FOR FURTHER INFORMATION CONTACT: The Office of Economic Development, Department of Housing and Urban Development, Room 7136, 451 Seventh Street, SW, Washington, DC 20410. Telephone (202) 708-2035; TTY (202) 708-1455. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:**Background**

Section 164 of the Housing and Community Development Act of 1992 (Pub.L. 102-550) amended title IV of the National Affordable Housing Act (42 U.S.C. 1437aaa) to add a new subtitle D which established the Youthbuild program. On February 21, 1995, the Department published a final rule at 60 FR 9734, which is codified at 24 CFR Part 585.

Amendment of Interim Rule

On May 17, 1996, the Department published an interim rule which further addressed the use of Youthbuild funds for administrative costs, including overhead and salaries and wages associated with an implementation grant. The public comment period on the interim rule expired on July 1, 1996. Fourteen commenters responded: Ten recipients of Youthbuild funds, one potential grant operator, one certified public accounting firm, and two national organizations. Overall, the commenters believe that the rule diminishes the quality of the program and is contrary to the goal of increasing the number of young adults in Youthbuild programs. The commenters

believe that it is contradictory to the guiding principles in HUD's Community Planning and Development programs and hampers the comprehensive approach to the program. The commenters also assert that Youthbuild has worked up until now because HUD has recognized the need to stimulate community investment and support for Youthbuild's success and that the interim rule starts the unraveling of this philosophy by weakening the infrastructure that guides the Youthbuild program. The Department welcomes the comments of the grantees and participants in the Youthbuild Program, and therefore in recognition of the overwhelming criticism of the May 17, 1996 interim rule, the Department further amends § 585.305(m) by removing paragraphs (m)(1) and (m)(2) which were added by the interim rule.

Streamlining of Part 585

President Clinton's memorandum of March 4, 1995, titled "Regulatory Reinvention Initiative" directed heads of Federal departments and agencies to review all existing regulations to eliminate those that are outdated and modify others to increase flexibility and reduce burden. As a part of HUD's overall effort to reduce regulatory burden and streamline the content of title 24 of the Code of Federal Regulations, this rule removes those provisions which are unnecessary to be codified and can be made available through other non-rulemaking means.

The Youthbuild program is authorized under subtitle D of title IV of the National Affordable Housing Act (42 U.S.C. 12899) ("NAHA"), as added by section 164 of the Housing and Community Development Act of 1992 (Pub. L. 102-550). Several provisions of the Youthbuild regulations repeat statutory language from the legislation. It is unnecessary to maintain statutory requirements in the Code of Federal Regulations (CFR), since these requirements are otherwise fully accessible and binding. Furthermore, if regulations contain statutory language, HUD must amend the regulations whenever Congress amends the statute. This final rule removes repetitious statutory language and replaces it with a citation to the specific statutory section for easy reference. The following streamlining amendments are made, therefore, by this rule:

1. Section 585.2 *Program Purpose* is amended to state that the purpose is set out in section 451 of NAHA.

2. Section 585.4 *Definitions* is amended to remove the definitions for

"adjusted income," "community based organization," "homeless individual," "housing development agency," "Indian tribe," "individual who has dropped out of high school," "institution of higher education," "limited-English proficiency," "low-income family," "offender," "State," and "very low-income family." An introductory statement is added to § 585.4 stating that the definitions for these terms can be found in section 457 of NAHA.

3. Section 585.309 *Project-related restrictions applicable to Youthbuild residential rental housing* is amended to revise paragraph (e) to state that the monthly rental limitation and the profit limitations on partners can be found in sec. 455(c)(1) and (2) of NAHA, respectively. The same amendment is made to § 585.310 *Project-related restrictions applicable to Youthbuild transitional housing for the homeless*.

4. Section 585.312 *Wages, labor standards, and nondiscrimination* is revised to state that the applicable provisions are set out in sec. 456(e) of NAHA.

Justification for Final Rule on Streamlining Provisions

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 on the streamlining provisions. The streamlining provisions merely remove unnecessary regulatory provisions and do not establish or affect substantive policy. Therefore, prior public comment is unnecessary.

Findings and Certifications

(a) *Environmental Impact.* A Finding of No Significant Impact with respect to the environment for this rule has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact 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 the General Counsel, Department of Housing and Urban Development, Room 10276, 451

Seventh Street, SW., Washington, DC 20410.

(b) *Regulatory Flexibility Act.* The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule will not have a significant economic impact on a substantial number of small entities because the rule merely withdraws an interim rule and makes nonsubstantive streamlining amendments to part 585.

(c) *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 does not have "federalism implications" because it does not have substantial direct effects on the States (including their political subdivisions), or on the distribution of power and responsibilities among the various levels of government.

(d) *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 a potential significant impact on family formation, maintenance, and general well-being. This rule merely withdraws an interim rule and makes nonsubstantive streamlining amendments to part 585.

(e) *Unfunded Mandates Reform Act.* Title II of the Unfunded Mandates Reform Act of 1995, Pub. L. 104-4, established requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule does not impose any Federal mandates on any State, local, or tribal governments or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995.

(f) *Catalog of Federal Domestic Assistance.* The Catalog of Federal

Domestic Assistance Program number assigned to this program is 14.243.

(g) *List of Subjects in 24 CFR Part 585.* Grant programs—housing and community development, Homeless, Low- and very low-income families, Reporting and record keeping requirements.

Accordingly, for the reasons set forth in the preamble, part 585 of title 24 of the Code of Federal Regulations is amended as follows:

PART 585—YOUTHBUILD PROGRAM

1. The authority citation for part 585 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 12899.

2. Section 585.2 is revised to read as follows:

§ 585.2 Program Purpose.

The purposes of the Youthbuild program are set out in section 451 of the National Affordable Housing Act (42 U.S.C. 12899) ("NAHA").

3. Section 585.4 is amended to remove the definitions for "adjusted income," "community based organization," "homeless individual," "housing development agency," "Indian tribe," "individual who has dropped out of high school," "institution of higher education," "limited-English proficiency," "low-income family," "offender," "State," and "very low-income family" and to add introductory text to read as follows:

§ 585.4 Definitions.

The terms "adjusted income," "community based organization," "homeless individual," "housing development agency," "Indian tribe," "individual who has dropped out of high school," "institution of higher education," "limited-English proficiency," "low-income family," "offender," "State," and "very low-

income family" are defined in section 457 of NAHA.

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§ 585.305 [Amended]

4. In § 585.305, paragraph (m) is amended to remove paragraphs (m)(1) and (m)(2).

5. Section 585.309 is amended to revise paragraph (e) to read as follows:

§ 585.309 Project-related restrictions applicable to Youthbuild residential rental housing.

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(e) *Limitations on profit.* Youthbuild residential rental housing projects meeting the requirements of this section shall be restricted from producing profit in excess of the limitations set out in sections 455(c)(1) and (2) of NAHA.

* * * * *

6. Section 585.310 is amended to revise paragraph (a) to read as follows:

§ 585.310 Project-related restrictions applicable to Youthbuild transitional housing for the homeless.

* * * * *

(a) *Limitations on profit.* Youthbuild residential rental housing projects meeting the requirements of this section shall be restricted from producing profit in excess of the limitations set out in sections 455(c)(1) and (2) of NAHA.

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7. Section 585.312 is revised to read as follows:

§ 585.312 Wages, labor standards, and nondiscrimination.

Applicable provisions are stated in section 456(e) of NAHA.

Dated: September 24, 1996.

Andrew M. Cuomo,
Assistant Secretary for Community Planning
and Development.

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