

# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## 24 CFR Part 572

[Docket No. FR-3857-P-03]

### Office of the Assistant Secretary for Community Planning and Development; Homeownership of Single Family Homes Program (HOPE 3); Streamlining Rule

RIN 2506-AB71

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

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule is being issued soon after a final rule that streamlines HUD's regulations for the HOPE for Homeownership of Single Family Homes Program (HOPE 3) Program. This rule proposes further amendments to the regulations that comply with the President's regulatory reform initiatives by eliminating remaining provisions that are unnecessarily expansive, in light of existing statutory requirements, but for which notice-and-comment rulemaking is required.

**DATES:** Comment due date: December 9, 1996.

#### FOR FURTHER INFORMATION CONTACT:

Gordon McKay, Director, Office of Affordable Housing Programs, Room 7168, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410, telephone number (202) 708-2685 (this is not a toll-free number). For hearing- and speech-impaired persons, this number may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at 1-800-877-8339.

**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 determined that the regulations for the HOPE for Homeownership of Single Family Homes Program (42 U.S.C. 12891-12898a) (HOPE 3) Program could be improved and streamlined. On September 16, 1996 (61 FR 48796), HUD published in the Federal Register a final rule that completed a previous rulemaking process on the HOPE 3 regulations and made streamlining

changes to those regulations, where prior notice and comment was not required.

This proposed rule will make additional streamlining changes, primarily to the provisions relating to competitions for HOPE 3 funding. Currently, HUD does not have significant amounts of unobligated HOPE 3 funds and does not anticipate additional funds will be appropriated for the HOPE 3 program, and the current regulations on applications for funding include outdated references and are unnecessarily lengthy and prescriptive. By this proposed rule, HUD is preserving those regulations only to the extent necessary to ensure HUD's ability to run future competitions in the event funds become available to make awards under the program.

Thus, this rule would remove most of those provisions containing requirements relating to competitive distributions of HOPE 3 funds. In making these distributions, HUD is required to comply with section 102 of the Department of Housing and Urban Development Reform Act (HUD Reform Act) (42 U.S.C. 3545). The requirements of section 102 are binding, whether HUD maintains implementing provisions in regulatory text in the Code of Federal Regulations (CFR) or in separate published notices announcing competitions for funding.

HUD also notes that, because of recent statutory amendments, direct homeownership assistance is now a permanent eligible activity under both the HOME Investment Partnerships and Community Development Block Grant programs. As a result, families that might have been assisted by the HOPE 3 program may be eligible for homeownership assistance through the HOME or CDBG programs, instead. This availability of other assistance makes future HOPE 3 appropriations and competitions less likely.

This proposed rule would also remove lengthy provisions explaining the Cash and Management Information System that is used to disburse HOPE 3 grant funds (see § 572.230). The information that would be removed is contained in other guidance material and does not need to be codified. Additional changes to the part 572 regulations may be made later, as conforming amendments in rules that streamline other HUD regulations. For example, at the final rule stage, a proposed rule published on April 5, 1996 (61 FR 15340), may affect § 572.410, Environmental Procedures and Standards.

## 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 proposed 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 recognizes administrative changes in HUD's structure and 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 existing regulations by consolidating and streamlining provisions and does not alter the environmental effect of 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 HOPE 3 program. 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 will result from this rule that would affect the relationship between the Federal Government and State and local governments.

### *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, as those policies and programs relate to family concerns, will result from promulgation of this rule.

The Catalog of Federal Domestic Assistance number for this program is 14.240.

#### List of Subjects in 24 CFR Part 572

Condominiums, Cooperatives, Fair housing, Government property, Grant programs—housing and community development, Low and moderate income housing, Nonprofit organizations, Reporting and recordkeeping requirements.

Accordingly, for the reasons set out in the preamble, part 572 of title 24 of the Code of Federal Regulations is proposed to be amended as follows.

### **PART 572—HOPE FOR HOMEOWNERSHIP OF SINGLE FAMILY HOMES PROGRAM (HOPE 3)**

1. The authority citation for part 572 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 12891.

2. Section 572.5 is amended by revising the definition of *Program income*, to read as follows:

#### **§ 572.5 Definitions.**

\* \* \* \* \*

*Program income* means income earned from the program as described in parts 84 and 85, as applicable, of this title, except that program income does not include proceeds from the sale and resale of properties. Such sale and resale proceeds, and interest earned by the recipient or its designee on those proceeds, are governed by § 572.135 (a) through (c).

\* \* \* \* \*

#### **§ 572.100 [Amended]**

3. Section 572.100 is amended by removing the second sentence of paragraph (a)(2).

4. Section 572.135 is amended by revising paragraph (d), to read as follows:

#### **§ 572.135 Use of proceeds from sales to eligible families, resale proceeds, and program income.**

\* \* \* \* \*

(d) *Program income*. Any program income, as defined in § 572.5, received by the recipient may be added to the funds committed to the grant agreement by HUD and the recipient, in accordance with the requirements of parts 84 and 85, as applicable, of this title.

5. Section 572.210 is amended as follows:

- a. Paragraph (a) is revised;
- b. Paragraphs (b), (c) and (d) are removed;
- c. Paragraphs (f) and (g) are redesignated as paragraphs (b) and (c), respectively; and
- d. A new sentence is added at the end of paragraph (b), as redesignated, to read as follows:

#### **§ 572.210 Implementation grants.**

(a) *General authority*. Any implementation grants for the purpose of carrying out homeownership programs approved under this part will be awarded using a selection process and selection criteria to be published in a NOFA.

(b) \* \* \* A previously approved grant amount may not be amended to increase the grant amount.

\* \* \* \* \*

6. Section 572.230 is revised to read as follows:

#### **§ 572.230 Cash and Management Information (C/MI) System.**

Disbursement of HOPE 3 grant funds is managed through HUD's Cash and Management Information (C/MI) System for the HOPE 3 program. Funds that may be disbursed through the C/MI System include funds awarded to the recipient and obligated through the grant approval letter issued by HUD. HOPE 3 funds are drawn down by the recipient or its authorized designee from a United States Treasury account for the program, using the Treasury Automatic Clearinghouse (ACH) System. Any drawdown of HOPE 3 funds from the

United States Treasury account is conditioned upon the submission of satisfactory information about the program and compliance with other procedures specified by HUD in HUD's forms and issuances concerning the C/MI System.

7. Section 572.300 is revised to read as follows:

#### **§ 572.300 Notices of funding availability (NOFAs); grant applications.**

When funds are made available for planning grants or implementation grants under this part, HUD will publish a NOFA in the Federal Register, in accordance with the requirements of part 12 of this title, and will select applications for funding on a competitive basis as provided in the applicable NOFA.

#### **§§ 572.305, 572.310, and 572.320 [Removed]**

8. Sections 572.305, 572.310, and 572.320 are removed.

9. Section 572.420 is amended by revising the second sentence of paragraph (a)(1), to read as follows:

#### **§ 572.420 Miscellaneous requirements.**

(a) \* \* \*

(1) \* \* \* Part 84 of this title (Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations) and OMB Circular Nos. A-122 (Cost Principles Applicable to Grants, Contract and Other Agreements with Nonprofit Institutions) and, as applicable, A-21 (Cost Principles for Educational Institutions) apply to the acceptance and use of assistance under this part by covered organizations, except where inconsistent with the provisions of Federal statutes or this part. \* \* \*

\* \* \* \* \*

Dated: September 3, 1996.

Andrew Cuomo,

*Assistant Secretary for Community Planning and Development.*

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