

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**24 CFR Part 586**

[Docket No. FR-3820-F-03]

RIN 2506-AB72

Base Closure Community Redevelopment and Homeless Assistance

AGENCY: Office of the Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: This rule amends the Revitalizing Base Closure Communities and Community Assistance—Community Redevelopment and Homeless Assistance interim regulation of the Department of Housing and Urban Development published on August 17, 1995. The Department of Defense (DoD) made an identical publication on August 8, 1995. It establishes policies and procedures, developed by both DoD and HUD, to take into account Section 2838 of the National Defense Authorization Act for FY 96 and comments received from the public on the interim rule.

DATES: *Effective:* August 11, 1997.

FOR FURTHER INFORMATION CONTACT: Bill Poythress, Base Redevelopment Team, Office of the Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development, 75 Spring Street, SW, Atlanta, GA 30303-3388, (404) 331-5001, ext. 2546, or, TTY number for hearing and speech-impaired, 1-800-877-8391, or Patrick O'Brien, Base Closure and Community Reinvestment Office, Department of Defense, 400 Army Navy Drive, Suite 200, Arlington, VA 22202, (703) 604-5844 (except for the 800 number, these telephone numbers are not toll-free).

SUPPLEMENTARY INFORMATION:**Regulatory History and Background Information**

DoD and HUD published interim final rules on August 8, 1995, (60 FR 40277) and August 17, 1995, (60 FR 42972), respectively, implementing the Base Closure Community Redevelopment and Homeless Assistance Act, Public Law 103-421, (the "Redevelopment Act"). Public comments were accepted until October 16, 1995. Comments were received from six different sources including State and local entities and non-profit organizations.

On February 10, 1996, the President signed the National Defense

Authorization Act for FY 96 (Public Law 104-106) which, in section 2838, amended the Redevelopment Act. This final rule addresses both the comments received on the interim rules during the public comment period, and the amendments to the Redevelopment Act contained in Public Law 104-106. HUD's final rule is identical to DoD's final rule, published on July 1, 1997 (62 FR 35343). Readers are referred to the preamble of the DoD final rule for a full discussion of the public comments and statutory changes that affect this rule.

Extent of Changes to the Rule

DoD and HUD believe that the process created in the interim final rule requires few changes as evidenced by the limited number of comments received on the rule, the ease with which LRAs have been complying with the requirements set out in the rule, and most importantly, by the content of the applications that have been submitted to HUD for approval. The redevelopment plans contained in the applications that have been submitted have, for the most part, balanced the economic redevelopment and other development needs of the communities in the vicinity of the installation with the needs of the homeless in those communities in an appropriate manner. As a result, extensive changes based on public comments have not been made. However, changes stemming from the recent amendments to the Redevelopment Act have been incorporated.

HUD's Review Process

Since the publication of the interim final rule, the area that has raised the most questions has been the process HUD uses to review applications. In accordance with the procedures outlined in the Redevelopment Act, the LRA must submit to HUD and DoD an application which includes a copy of the redevelopment plan and a homeless assistance submission. HUD reviews these applications and notifies DoD and the LRA of its findings. The review criteria used by HUD are outlined in § 586.35(b) of this rule.

To help facilitate the completion of approvable applications, HUD works with LRAs, the affected communities, and representatives of the homeless throughout the development of the redevelopment plan and application. HUD is available to provide assistance to LRAs throughout the planning process. Such assistance includes attending LRA workshops held under § 586.20(c)(3) and meeting with LRAs at their request to discuss specific issues.

HUD must receive the LRA's application no later than 270 days from the deadline for receipt of notices of interest. HUD's headquarters Base Redevelopment Team, and the local HUD Field Office will jointly review the applications and approve or disapprove the LRA's submission. This evaluation includes a completeness review to determine if all the required elements have been submitted by the LRA. The HUD Field Office will contact the LRA regarding any elements that were omitted. Next, HUD evaluates if the redevelopment plan balances the economic redevelopment and other development needs of the communities in the vicinity of the installation with the needs of the homeless in those communities in an appropriate manner. Finally, HUD evaluates the legally binding agreements to ensure that the terms and conditions are clearly articulated.

To assist LRAs with completing their applications and to provide more information to interested parties about the Redevelopment Act process, including HUD's review process, HUD has developed a publication called the "Guidebook on Military Base Reuse and Homeless Assistance." To obtain a copy write the Department of Housing and Urban Development, Base Redevelopment Team, 75 Spring Street, SW, Atlanta, GA 30303-3388 or call (404) 331-5001 x2546. The Guidebook is also available on the World Wide Web at: <http://www.hud.gov/cpd/milbase>.

I. Findings and Certifications**Paperwork Reduction Act**

The information collection requirements contained in §§ 586.20 and 586.30 of this rule have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), and assigned OMB control number 2506-0154. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 establishes 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.

Impact on the Environment

For the interim rule published for this part, HUD made a Finding of No Significant Impact with respect to the environment in accordance with HUD regulations in 24 CFR part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The changes made in the text of the final rule do not substantively affect the Finding of No Significant Impact prepared for the interim rule, and it remains applicable. That Finding of No Significant Impact is available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street, S.W., Washington, D.C. 20410.

Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

This rule will not pose an environmental health risk or safety risk on children.

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 would not have a significant economic impact on a substantial number of small entities. This rule only states the Department's criteria and procedures for reviewing applications submitted by local redevelopment authorities (LRAs).

Federalism Impact

The General Counsel of HUD, as the Designated Official under Executive Order 12612, Federalism, has determined that the policies contained in this rule would not have any impact under the Order. The rule states HUD's review criteria and procedures for reviewing applications submitted by the LRA for balancing homeless, community and economic redevelopment and other development needs of the communities in the vicinity of the installation.

List of Subjects in 24 CFR Part 586

Government property, Homeless, Housing, Intergovernmental relations, Surplus government property.

Accordingly, for the reasons set forth in the preamble, part 586 of title 24 of the Code of Federal Regulations is revised to read as follows:

PART 586—REVITALIZING BASE CLOSURE COMMUNITIES AND COMMUNITY ASSISTANCE—COMMUNITY REDEVELOPMENT AND HOMELESS ASSISTANCE

Sec.

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Authority: 10 U.S.C. 2687 *note*; 42 U.S.C. 3535(d).

§ 586.1 Purpose.

This part implements the Base Closure Community Redevelopment and Homeless Assistance Act, as amended (10 U.S.C. 2687 *note*), which instituted a new community-based process for addressing the needs of the homeless at base closure and realignment sites. In this process, Local Redevelopment Authorities (LRAs) identify interest from homeless providers in installation property and develop a redevelopment plan for the installation that balances the economic redevelopment and other development needs of the communities in the vicinity of the installation with the needs of the homeless in those communities. The Department of Housing and Urban Development (HUD) reviews the LRA's plan to see that an appropriate balance is achieved. This part also implements the process for identifying interest from State and local entities for property under a public benefit transfer. The LRA is responsible for concurrently identifying interest from homeless providers and State and local entities interested in property under a public benefit transfer.

§ 586.5 Definitions.

As used in this part:

CERCLA. Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 *et seq.*).

Communities in the vicinity of the installation. The communities that constitute the political jurisdictions (other than the State in which the installation is located) that comprise the LRA for the installation. If no LRA is formed at the local level, and the State is serving in that capacity, the communities in the vicinity of the installation are deemed to be those political jurisdiction(s) (other than the

State) in which the installation is located.

Consolidated Plan. The plan prepared in accordance with the requirements of 24 CFR part 91.

Continuum of care system.

(1) A comprehensive homeless assistance system that includes:

(i) A system of outreach and assessment for determining the needs and condition of an individual or family who is homeless, or whether assistance is necessary to prevent an individual or family from becoming homeless;

(ii) Emergency shelters with appropriate supportive services to help ensure that homeless individuals and families receive adequate emergency shelter and referral to necessary service providers or housing finders;

(iii) Transitional housing with appropriate supportive services to help those homeless individuals and families who are not prepared to make the transition to independent living;

(iv) Housing with or without supportive services that has no established limitation on the amount of time of residence to help meet long-term needs of homeless individuals and families; and

(v) Any other activity that clearly meets an identified need of the homeless and fills a gap in the continuum of care.

(2) Supportive services are services that enable homeless persons and families to move through the continuum of care toward independent living. These services include, but are not limited to, case management, housing counseling, job training and placement, primary health care, mental health services, substance abuse treatment, child care, transportation, emergency food and clothing, family violence services, education services, moving services, assistance in obtaining entitlements, and referral to veterans services and legal services.

Day. One calendar day including weekends and holidays.

DoD. Department of Defense.

HHS. Department of Health and Human Services.

Homeless person. (1) An individual or family who lacks a fixed, regular, and adequate nighttime residence; and

(2) An individual or family who has a primary nighttime residence that is:

(i) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters and transitional housing for the mentally ill);

(ii) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(iii) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(3) This term does not include any individual imprisoned or otherwise detained under an Act of the Congress or a State law.

HUD. Department of Housing and Urban Development.

Installation. A base, camp, post, station, yard, center, homeport facility for any ship or other activity under the jurisdiction of DoD, including any leased facility, that is approved for closure or realignment under the Base Closure and Realignment Act of 1988 (Pub. L. 100-526), as amended, or the Defense Base Closure and Realignment Act of 1990 (Pub. L. 101-510), as amended (both at 10 U.S.C. 2687, *note*).

Local redevelopment authority (LRA). Any authority or instrumentality established by State or local government and recognized by the Secretary of Defense, through the Office of Economic Adjustment, as the entity responsible for developing the redevelopment plan with respect to the installation or for directing implementation of the plan.

NEPA. National Environmental Policy Act of 1969 (42 U.S.C. 4320).

OEA. Office of Economic Adjustment, Department of Defense.

Private nonprofit organization. An organization, no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual; that has a voluntary board; that has an accounting system or has designated an entity that will maintain a functioning accounting system for the organization in accordance with generally accepted accounting procedures; and that practices nondiscrimination in the provision of assistance.

Public benefit transfer. The transfer of surplus military property for a specified public purpose at up to a 100 percent discount in accordance with 40 U.S.C. 471 *et seq.*, or 49 U.S.C. 47151-47153.

Redevelopment plan. A plan that is agreed to by the LRA with respect to the installation and provides for the reuse or redevelopment of the real property and personal property of the installation that is available for such reuse and redevelopment as a result of the closure of the installation.

Representative(s) of the homeless. A State or local government agency or private nonprofit organization, including a homeless assistance planning board, that provides or proposes to provide services to the homeless.

Substantially equivalent. Property that is functionally suitable to substitute

for property referred to in an approved Title V application. For example, if the representative of the homeless had an approved Title V application for a building that would accommodate 100 homeless persons in an emergency shelter, the replacement facility would also have to accommodate 100 at a comparable cost for renovation.

Substantially equivalent funding. Sufficient funding to acquire a substantially equivalent facility.

Surplus property. Any excess property not required for the needs and the discharge of the responsibilities of all Federal Agencies. Authority to make this determination, after screening with all Federal Agencies, rests with the Military Departments.

Title V. Title V of the Stewart B. McKinney Homeless Assistance Act of 1987 (42 U.S.C. 11411) as amended by the National Defense Authorization Act for Fiscal Year 1994 (Pub. L. 103-160).

Urban county. A county within a metropolitan area as defined at 24 CFR 570.3.

§ 586.10 Applicability.

(a) **General.** This part applies to all installations that are approved for closure/realignment by the President and Congress under Pub. L. 101-510 after October 25, 1994.

(b) **Request for inclusion under this process.** This part also applies to installations that were approved for closure/realignment under either Public Law 100-526 or Public Law 101-510 prior to October 25, 1994 and for which an LRA submitted a request for inclusion under this part to DoD by December 24, 1994. A list of such requests was published in the **Federal Register** on May 30, 1995 (60 FR 28089).

(1) For installations with Title V applications pending but not approved before October 25, 1994, the LRA shall consider and specifically address any application for use of buildings and property to assist the homeless that were received by HHS prior to October 25, 1994, and were pending with the Secretary of HHS on that date. These pending requests shall be addressed in the LRA's homeless assistance submission.

(2) For installations with Title V applications approved before October 25, 1994 where there is an approved Title V application, but property has not been assigned or otherwise disposed of by the Military Department, the LRA must ensure that its homeless assistance submission provides the Title V applicant with:

(i) The property requested;

(ii) Properties, on or off the installation, that are substantially equivalent to those requested;

(iii) Sufficient funding to acquire such substantially equivalent properties;

(iv) Services and activities that meet the needs identified in the application; or

(v) A combination of the properties, funding, and services and activities described in § 586.10(b)(2)(i) through (iv).

(c) **Revised Title V process.** All other installations approved for closure or realignment under either Public Law 100-526 or Public Law 101-510 prior to October 25, 1994, for which there was no request for consideration under this part, are covered by the process stipulated under Title V. Buildings or property that were transferred or leased for homeless use under Title V prior to October 25, 1994, may not be reconsidered under this part.

§ 586.15 Waivers and extensions of deadlines.

(a) After consultation with the LRA and HUD, and upon a finding that it is in the interest of the communities affected by the closure/realignment of the installation, DoD, through the Director of the Office of Economic Adjustment, may extend or postpone any deadline contained in this part.

(b) Upon completion of a determination and finding of good cause, and except for deadlines and actions required on the part of DoD, HUD may waive any provision of §§ 586.20 through 586.45 in any particular case, subject only to statutory limitations.

§ 586.20 Overview of the process.

(a) **Recognition of the LRA.** As soon as practicable after the list of installations recommended for closure or realignment is approved, DoD, through OEA, will recognize an LRA for the installation. Upon recognition, OEA shall publish the name, address, and point of contact for the LRA in the **Federal Register** and in a newspaper of general circulation in the communities in the vicinity of the installation.

(b) **Responsibilities of the Military Department.** The Military Department shall make installation properties available to other DoD components and Federal agencies in accordance with the procedures set out at 32 CFR part 175. The Military Department will keep the LRA informed of other Federal interest in the property during this process. Upon completion of this process the Military Department will notify HUD and either the LRA, or the Chief Executive Officer of the State, as

appropriate, and publish a list of surplus property on the installation that will be available for reuse in the **Federal Register** and a newspaper of general circulation in the communities in the vicinity of the installation.

(c) *Responsibilities of the LRA.* The LRA should begin to conduct outreach efforts with respect to the installation as soon as is practicable after the date of approval of closure/realignment of the installation. The local reuse planning process must begin no later than the date of the Military Department's **Federal Register** publication of available property described at § 586.20(b). For those installations that began the process described in this part prior to August 17, 1995, HUD will, on a case by case basis, determine whether the statutory requirements have been fulfilled and whether any additional requirements listed in this part should be required. Upon the **Federal Register** publication described in § 586.20(b), the LRA shall:

(1) Publish, within 30 days, in a newspaper of general circulation in the communities in the vicinity of the installation, the time period during which the LRA will receive notices of interest from State and local governments, representatives of the homeless, and other interested parties. This publication shall include the name, address, telephone number and the point of contact for the LRA who can provide information on the prescribed form and contents of the notices of interest. The LRA shall notify DoD of the deadline specified for receipt of notices of interest. LRAs are strongly encouraged to make this publication as soon as possible within the permissible 30 day period in order to expedite the closure process.

(i) In addition, the LRA has the option to conduct an informal solicitation of notices of interest from public and non-profit entities interested in obtaining property via a public benefit transfer other than a homeless assistance conveyance under either 40 U.S.C. 471 *et seq.*, or 49 U.S.C. 47151–47153. As part of such a solicitation, the LRA may wish to request that interested entities submit a description of the proposed use to the LRA and the sponsoring Federal agency.

(ii) For all installations selected for closure or realignment prior to 1995 that elected to proceed under Public Law 103–421, the LRA shall accept notices of interest for not less than 30 days.

(iii) For installations selected for closure or realignment in 1995 or thereafter, notices of interest shall be accepted for a minimum of 90 days and

not more than 180 days after the LRA's publication under § 586.20(c)(1).

(2) Prescribe the form and contents of notices of interest.

(i) The LRA may not release to the public any information regarding the capacity of the representative of the homeless to carry out its program, a description of the organization, or its financial plan for implementing the program, without the consent of the representative of the homeless concerned, unless such release is authorized under Federal law and under the law of the State and communities in which the installation concerned is located. The identity of the representative of the homeless may be disclosed.

(ii) The notices of interest from representatives of the homeless must include:

(A) A description of the homeless assistance program proposed, including the purposes to which the property or facility will be put, which may include uses such as supportive services, job and skills training, employment programs, shelters, transitional housing or housing with no established limitation on the amount of time of residence, food and clothing banks, treatment facilities, or any other activity which clearly meets an identified need of the homeless and fills a gap in the continuum of care;

(B) A description of the need for the program;

(C) A description of the extent to which the program is or will be coordinated with other homeless assistance programs in the communities in the vicinity of the installation;

(D) Information about the physical requirements necessary to carry out the program including a description of the buildings and property at the installation that are necessary to carry out the program;

(E) A description of the financial plan, the organization, and the organizational capacity of the representative of the homeless to carry out the program; and

(F) An assessment of the time required to start carrying out the program.

(iii) The notices of interest from entities other than representatives of the homeless should specify the name of the entity and specific interest in property or facilities along with a description of the planned use.

(3) In addition to the notice required under § 586.20(c)(1), undertake outreach efforts to representatives of the homeless by contacting local government officials and other persons or entities that may be interested in

assisting the homeless within the vicinity of the installation.

(i) The LRA may invite persons and organizations identified on the HUD list of representatives of the homeless and any other representatives of the homeless with which the LRA is familiar, operating in the vicinity of the installation, to the workshop described in § 586.20(c)(3)(ii).

(ii) The LRA, in coordination with the Military Department and HUD, shall conduct at least one workshop where representatives of the homeless have an opportunity to:

(A) Learn about the closure/realignment and disposal process;

(B) Tour the buildings and properties available either on or off the installation;

(C) Learn about the LRA's process and schedule for receiving notices of interest as guided by § 586.20(c)(2); and

(D) Learn about any known land use constraints affecting the available property and buildings.

(iii) The LRA should meet with representatives of the homeless that express interest in discussing possible uses for these properties to alleviate gaps in the continuum of care.

(4) Consider various properties in response to the notices of interest. The LRA may consider property that is located off the installation.

(5) Develop an application, including the redevelopment plan and homeless assistance submission, explaining how the LRA proposes to address the needs of the homeless. This application shall consider the notices of interest received from State and local governments, representatives of the homeless, and other interested parties. This shall include, but not be limited to, entities eligible for public benefit transfers under either 40 U.S.C. 471 *et seq.*, or 49 U.S.C. 47151–47153; representatives of the homeless; commercial, industrial, and residential development interests; and other interests. From the deadline date for receipt of notices of interest described at § 586.20(c)(1), the LRA shall have 270 days to complete and submit the LRA application to the appropriate Military Department and HUD. The application requirements are described at § 586.30.

(6) Make the draft application available to the public for review and comment periodically during the process of developing the application. The LRA must conduct at least one public hearing on the application prior to its submission to HUD and the appropriate Military Department. A summary of the public comments received during the process of developing the application shall be

included in the application when it is submitted.

(d) *Public benefit transfer screening.* The LRA should, while conducting its outreach efforts, work with the Federal agencies that sponsor public benefit transfers under either 40 U.S.C. 471 *et seq.* or 49 U.S.C. 47151–47153. Those agencies can provide a list of parties in the vicinity of the installation that might be interested in and eligible for public benefit transfers. The LRA should make a reasonable effort to inform such parties of the availability of the property and incorporate their interests within the planning process. Actual recipients of property are to be determined by the sponsoring Federal agency. The Military Departments shall notify sponsoring Federal agencies about property that is available based on the community redevelopment plan and keep the LRA apprised of any expressions of interest. Such expressions of interest are not required to be incorporated into the redevelopment plan, but must be considered.

§ 586.25 HUD's negotiations and consultations with the LRA.

HUD may negotiate and consult with the LRA before and during the course of preparation of the LRA's application and during HUD's review thereof with a view toward avoiding any preliminary determination that the application does not meet any requirement of this part. LRAs are encouraged to contact HUD for a list of persons and organizations that are representatives of the homeless operating in the vicinity of the installation.

§ 586.30 LRA application.

(a) *Redevelopment plan.* A copy of the redevelopment plan shall be part of the application.

(b) *Homeless assistance submission.* This component of the application shall include the following:

(1) Information about homelessness in the communities in the vicinity of the installation.

(i) A list of all the political jurisdictions which comprise the LRA.

(ii) A description of the unmet need in the continuum of care system within each political jurisdiction, which should include information about any gaps that exist in the continuum of care for particular homeless subpopulations. The source for this information shall depend upon the size and nature of the political jurisdictions(s) that comprise the LRA. LRAs representing:

(A) Political jurisdictions that are required to submit a Consolidated Plan shall include a copy of their Homeless and Special Needs Population Table

(Table 1), Priority Homeless Needs Assessment Table (Table 2), and narrative description thereof from that Consolidated Plan, including the inventory of facilities and services that assist the homeless in the jurisdiction.

(B) Political jurisdictions that are part of an urban county that is required to submit a Consolidated Plan shall include a copy of their Homeless and Special Needs Population Table (Table 1), Priority Homeless Needs Assessment Table (Table 2), and narrative description thereof from that Consolidated Plan, including the inventory of facilities and services that assist the homeless in the jurisdiction. In addition, the LRA shall explain what portion of the homeless population and subpopulations described in the Consolidated Plan are attributable to the political jurisdiction it represents.

(C) A political jurisdiction not described by § 586.30(b)(1)(ii)(A) or § 586.30(b)(1)(ii)(B) shall submit a narrative description of what it perceives to be the homeless population within the jurisdiction and a brief inventory of the facilities and services that assist homeless persons and families within the jurisdiction. LRAs that represent these jurisdictions are not required to conduct surveys of the homeless population.

(2) Notices of interest proposing assistance to homeless persons and/or families.

(i) A description of the proposed activities to be carried out on or off the installation and a discussion of how these activities meet a portion or all of the needs of the homeless by addressing the gaps in the continuum of care. The activities need not be limited to expressions of interest in property, but may also include discussions of how economic redevelopment may benefit the homeless;

(ii) A copy of each notice of interest from representatives of the homeless for use of buildings and property and a description of the manner in which the LRA's application addresses the need expressed in each notice of interest. If the LRA determines that a particular notice of interest should not be awarded property, an explanation of why the LRA determined not to support that notice of interest, the reasons for which may include the impact of the program contained in the notice of interest on the community as described in § 586.30(b)(2)(iii); and

(iii) A description of the impact that the implemented redevelopment plan will have on the community. This shall include information on how the LRA's redevelopment plan might impact the character of existing neighborhoods

adjacent to the properties proposed to be used to assist the homeless and should discuss alternative plans. Impact on schools, social services, transportation, infrastructure, and concentration of minorities and/or low income persons shall also be discussed.

(3) Legally binding agreements for buildings, property, funding, and/or services.

(i) A copy of the legally binding agreements that the LRA proposes to enter into with the representative(s) of the homeless selected by the LRA to implement homeless programs that fill gaps in the existing continuum of care. The legally binding agreements shall provide for a process for negotiating alternative arrangements in the event that an environmental analysis conducted under § 586.45(b) indicates that any property identified for transfer in the agreement is not suitable for the intended purpose. Where the balance determined in accordance with § 586.30(b)(4) provides for the use of installation property as a homeless assistance facility, legally binding agreements must provide for the reversion or transfer, either to the LRA or to another entity or entities, of the buildings and property in the event they cease to be used for the homeless. In cases where the balance proposed by the LRA does not include the use of buildings or property on the installation, the legally binding agreements need not be tied to the use of specific real property and need not include a reverter clause. Legally binding agreements shall be accompanied by a legal opinion of the chief legal advisor of the LRA or political jurisdiction or jurisdictions which will be executing the legally binding agreements that the legally binding agreements, when executed, will constitute legal, valid, binding, and enforceable obligations on the parties thereto;

(ii) A description of how buildings, property, funding, and/or services either on or off the installation will be used to fill some of the gaps in the current continuum of care system and an explanation of the suitability of the buildings and property for that use; and

(iii) Information on the availability of general services such as transportation, police, and fire protection, and a discussion of infrastructure such as water, sewer, and electricity in the vicinity of the proposed homeless activity at the installation.

(4) An assessment of the balance with economic and other development needs.

(i) An assessment of the manner in which the application balances the expressed needs of the homeless and the

needs of the communities comprising the LRA for economic redevelopment and other development; and

(ii) An explanation of how the LRA's application is consistent with the appropriate Consolidated Plan(s) or any other existing housing, social service, community, economic, or other development plans adopted by the jurisdictions in the vicinity of the installation.

(5) A description of the outreach undertaken by the LRA. The LRA shall explain how the outreach requirements described at § 586.20(c)(1) and § 586.20(c)(3) have been fulfilled. This explanation shall include a list of the representatives of the homeless the LRA contacted during the outreach process.

(c) *Public comments.* The LRA application shall include the materials described at § 586.20(c)(6). These materials shall be prefaced with an overview of the citizen participation process observed in preparing the application.

§ 586.35 HUD's review of the application.

(a) *Timing.* HUD shall complete a review of each application no later than 60 days after its receipt of a completed application.

(b) *Standards of review.* The purpose of the review is to determine whether the application is complete and, with respect to the expressed interest and requests of representatives of the homeless, whether the application:

(1) *Need.* Takes into consideration the size and nature of the homeless population in the communities in the vicinity of the installation, the availability of existing services in such communities to meet the needs of the homeless in such communities, and the suitability of the buildings and property covered by the application for use and needs of the homeless in such communities. HUD will take into consideration the size and nature of the installation in reviewing the needs of the homeless population in the communities in the vicinity of the installation.

(2) *Impact of notices of interest.* Takes into consideration any economic impact of the homeless assistance under the plan on the communities in the vicinity of the installation, including:

(i) Whether the plan is feasible in light of demands that would be placed on available social services, police and fire protection, and infrastructure in the community; and,

(ii) Whether the selected notices of interest are consistent with the Consolidated Plan(s) or any other existing housing, social service, community, economic, or other

development plans adopted by the political jurisdictions in the vicinity of the installation.

(3) *Legally binding agreements.* Specifies the manner in which the buildings, property, funding, and/or services on or off the installation will be made available for homeless assistance purposes. HUD will review each legally binding agreement to verify that:

(i) They include all the documents legally required to complete the transactions necessary to realize the homeless use(s) described in the application;

(ii) They include all appropriate terms and conditions;

(iii) They address the full range of contingencies including those described at § 586.30(b)(3)(i);

(iv) They stipulate that the buildings, property, funding, and/or services will be made available to the representatives of the homeless in a timely fashion; and

(v) They are accompanied by a legal opinion of the chief legal advisor of the LRA or political jurisdiction or jurisdictions which will be executing the legally binding agreements that the legally binding agreements will, when executed, constitute legal, valid, binding, and enforceable obligations on the parties thereto.

(4) *Balance.* Balances in an appropriate manner a portion or all of the needs of the communities in the vicinity of the installation for economic redevelopment and other development with the needs of the homeless in such communities.

(5) *Outreach.* Was developed in consultation with representatives of the homeless and the homeless assistance planning boards, if any, in the communities in the vicinity of the installation and whether the outreach requirements described at § 586.20(c)(1) and § 586.20(c)(3) have been fulfilled by the LRA.

(c) *Notice of determination.* (1) HUD shall, no later than the 60th day after its receipt of the application, unless such deadline is extended pursuant to § 586.15(a), send written notification both to DoD and the LRA of its preliminary determination that the application meets or fails to meet the requirements of § 586.35(b). If the application fails to meet the requirements, HUD will send the LRA:

(i) A summary of the deficiencies in the application;

(ii) An explanation of the determination; and

(iii) A statement of how the LRA must address the determinations.

(2) In the event that no application is submitted and no extension is requested as of the deadline specified in

§ 586.20(c)(5), and the State does not accept within 30 days a DoD written request to become recognized as the LRA, the absence of such application will trigger an adverse determination by HUD effective on the date of the lapsed deadline. Under these conditions, HUD will follow the process described at § 586.40.

(d) *Opportunity to cure.* (1) The LRA shall have 90 days from its receipt of the notice of preliminary determination under § 586.35(c)(1) within which to submit to HUD and DoD a revised application which addresses the determinations listed in the notice. Failure to submit a revised application shall result in a final determination, effective 90 days from the LRA's receipt of the preliminary determination, that the redevelopment plan fails to meet the requirements of § 586.35(b).

(2) HUD shall, within 30 days of its receipt of the LRA's resubmission, send written notification of its final determination of whether the application meets the requirements of § 586.35(b) to both DOD and the LRA.

§ 586.40 Adverse determinations.

(a) *Review and consultation.* If the resubmission fails to meet the requirements of § 586.35(b), or if no resubmission is received, HUD will review the original application, including the notices of interest submitted by representatives of the homeless. In addition, in such instances or when no original application has been submitted, HUD:

(1) Shall consult with the representatives of the homeless, if any, for purposes of evaluating the continuing interest of such representatives in the use of buildings or property at the installation to assist the homeless;

(2) May consult with the applicable Military Department regarding the suitability of the buildings and property at the installation for use to assist the homeless; and

(3) May consult with representatives of the homeless and other parties as necessary.

(b) *Notice of decision.* (1) Within 90 days of receipt of an LRA's revised application which HUD determines does not meet the requirements of § 586.35(b), HUD shall, based upon its reviews and consultations under § 586.40(a):

(i) Notify DoD and the LRA of the buildings and property at the installation that HUD determines are suitable for use to assist the homeless; and

(ii) Notify DoD and the LRA of the extent to which the revised

redevelopment plan meets the criteria set forth in § 586.35(b).

(2) In the event that an LRA does not submit a revised redevelopment plan under § 586.35(d), HUD shall, based upon its reviews and consultations under § 586.40(a), notify DoD and the LRA of the buildings and property at the installation that HUD determines are suitable for use to assist the homeless, either

(i) Within 190 days after HUD sends its notice of preliminary adverse determination under § 586.35(c)(1), if an LRA has not submitted a revised redevelopment plan; or

(ii) Within 390 days after the Military Department's **Federal Register** publication of available property under § 586.20(b), if no redevelopment plan has been received and no extension has been approved.

§ 586.45 Disposal of buildings and property.

(a) *Public benefit transfer screening.* Not later than the LRA's submission of its redevelopment plan to DoD and HUD, the Military Department will conduct an official public benefit transfer screening in accordance with the Federal Property Management Regulations (41 CFR part 101-47.303-2) based upon the uses identified in the redevelopment plan. Federal sponsoring

agencies shall notify eligible applicants that any request for property must be consistent with the uses identified in the redevelopment plan. At the request of the LRA, the Military Department may conduct the official State and local public benefit screening at any time after the publication of available property described at § 586.20(b).

(b) *Environmental analysis.* Prior to disposal of any real property, the Military Department shall, consistent with NEPA and section 2905 of the Defense Base Closure and Realignment Act of 1990, as amended (10 U.S.C. 2687 note), complete an environmental impact analysis of all reasonable disposal alternatives. The Military Department shall consult with the LRA throughout the environmental impact analysis process to ensure both that the LRA is provided the most current environmental information available concerning the installation, and that the Military Department receives the most current information available concerning the LRA's redevelopment plans for the installation.

(c) *Disposal.* Upon receipt of a notice of approval of an application from HUD under § 586.35(c)(1) or § 586.35(d)(2), DoD shall dispose of buildings and property in accordance with the record of decision or other decision document

prepared under § 586.45(b). Disposal of buildings and property to be used as homeless assistance facilities shall be to either the LRA or directly to the representative(s) of the homeless and shall be without consideration. Upon receipt of a notice from HUD under § 586.40(b), DoD will dispose of the buildings and property at the installation in consultation with HUD and the LRA.

(d) *LRA's responsibility.* The LRA shall be responsible for the implementation of and compliance with legally binding agreements under the application.

(e) *Reversions to the LRA.* If a building or property reverts to the LRA under a legally binding agreement under the application, the LRA shall take appropriate actions to secure, to the maximum extent practicable, the utilization of the building or property by other homeless representatives to assist the homeless. An LRA may not be required to utilize the building or property to assist the homeless.

Dated: June 27, 1997.

Jacque M. Lawing,

Acting Assistant Secretary for Community Planning and Development.

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