

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 570

[Docket No. FR-4872-I-01]

RIN 2506-AC15

Modification of the Community Development Block Grant Definition for Metropolitan City and Other Conforming Amendments

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

ACTION: Interim rule.

SUMMARY: This interim rule revises the Community Development Block Grant (CDBG) program regulations by replacing the obsolete term "central city" with a new term "principal city" in the definition of "metropolitan city" and other CDBG regulations referencing "central city." The revisions are necessary because of the recent changes to the Office of Management and Budget's (OMB) Standards for Defining Metropolitan and Micropolitan Statistical Areas (MSAs) and the announcement in 2003 of new definitions for those areas using Census 2000 data. The rule updates the affected CDBG program regulations so that the terminology used by HUD is consistent with OMB standards and the purposes of the Housing and Community Development Act of 1974.

DATES: *Effective Date:* January 12, 2004.
Comments Due Date: February 10, 2004.

ADDRESSES: Interested persons are invited to submit comments regarding this interim rule to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection and copying during weekdays between 8 a.m. and 5 p.m. at the above address. Facsimile (FAX) comments are not acceptable.

FOR FURTHER INFORMATION CONTACT: Sue Miller, Director, Entitlement Communities Division, Office of Block Grant Assistance, Office of Community Planning and Development, Room 7282, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-7000; telephone (202) 708-1577 (this is not a toll-free number). Hearing- or speech-impaired individuals may access the telephone

number listed in this section through TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:

I. Statutory Background

Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301-5320) (the Act) establishes the statutory framework for the CDBG program. HUD's regulations implementing the CDBG program are located at 24 CFR part 570 (entitled "Community Development Block Grants").

Section 102(a)(4) of the Act defines the term "metropolitan city" as "(A) a city within a metropolitan area which is the central city of such area, as defined and used by the Office of Management and Budget, or (B) any other city, within a metropolitan area, which has a population of fifty thousand or more. . . ." The term "metropolitan area" is defined in section 102(a)(3) of the Act as "a standard metropolitan statistical area as established by the Office of Management and Budget." Section 102(b) of the Act provides that the Secretary may, by regulation, change or otherwise modify the meaning of the terms defined in section 102(a) in order to reflect any technical change or modification made by the United States Bureau of the Census or OMB.

II. Regulatory Background

The CDBG program regulations at § 570.3 define "metropolitan city" as having the meaning provided in section 102(a)(4) of the Act. The term "metropolitan city" is defined in section 102(a)(4) of the Act as a city within a metropolitan area which is the central city of such area, as defined and used by OMB, or any other city within a metropolitan area, which has a population of 50,000 or more. OMB has defined "central city" and "principal city" in its **Federal Register** publications on standards for metropolitan statistical areas. OMB published standards at 55 FR 12154 on March 30, 1990, which included the definition of "central city" currently in use (the 1990 standards) in the CDBG program regulations. On December 27, 2000, OMB published at 65 FR 82228 new Standards for Defining Metropolitan and Micropolitan Statistical Areas, collectively called Core Based Statistical Areas (CBSAs) (the December 27, 2000, standards). These new standards replace the previous standards adopted in 1990 for defining metropolitan areas, and also replace "central cities" with the new concept of "principal cities."

Under the 1990 standards, the term "central city" was defined as: (A) The city with the largest population in a Metropolitan Statistical Area (MSA); (B) each additional city with a population of at least 250,000 or with at least 100,000 persons working within its limits; (C) each additional city with a population of at least 25,000, an employment/residence ratio (the number of persons working in the city divided by the number of resident workers with place of work reported) of at least 0.75, and at least 40 percent of its employed residents working in the city; (D) each city of 15,000 to 24,999 population that is at least one-third as large as the largest central city, has an employment/residence ratio of at least 0.75, and at least 40 percent of its employed residents working in the city; (E) the largest city in a secondary noncontiguous urbanized area (an additional urbanized area within an MSA that has no common boundary of more than a mile with the main urbanized area around which the MSA is defined), provided it has at least 15,000 population, an employment/residence ratio of at least 0.75, and at least 40 percent of its employed residents working in the city; and (F) each additional city in a secondary noncontiguous urbanized area that is at least one-third as large as the largest central city of that urbanized area, that has at least 15,000 population and an employment/residence ratio of at least 0.75, and that has at least 40 percent of its employed residents working in the city (55 FR 12155).

Under the 1990 standards, the term "metropolitan area" was a collective term that referred to MSAs, Primary Metropolitan Statistical Areas, and Consolidated Metropolitan Statistical Areas (55 FR 12155). In accordance with the requirements of the Act, the CDBG program has utilized the 1990 standards and Census data to determine entitlement eligibility and allocation of CDBG Entitlement program funds to eligible communities.

The December 27, 2000, standards use the new term "principal city" instead of "central city." A "principal city" is defined in relation to a CBSA rather than an MSA. The principal city (or cities) of a CBSA includes: (A) The largest incorporated place in the CBSA with a Census 2000 population of at least 10,000 or, if no such place exists, the largest incorporated place or census designated place in the CBSA; (B) any additional incorporated place or census designated place with a Census 2000 population of at least 250,000 or in which 100,000 or more persons work; (C) any additional incorporated place or

census designated place with a Census 2000 population of at least 50,000, but less than 250,000, and in which the number of jobs meets or exceeds the number of employed residents; and (D) any additional incorporated place or census designated place with a Census 2000 population of at least 10,000, but less than 50,000, and one-third the population size of the largest place, and in which the number of jobs meets or exceeds the number of employed residents (65 FR 82236).

The terms "central city" and "principal city" have slightly different meanings based on their respective standards. In the CDBG program, however, the term "principal city" will serve the same purpose as the now obsolete "central city" in determining CDBG entitlement eligibility.

III. This Interim Rule

This interim rule revises the CDBG program regulations (24 CFR part 570) at §§ 570.3, 570.4(c) and 570.307(e) to conform these sections to OMB's new definitions for CBSAs, and particularly for "principal cities." The rule amends the regulatory definition of "Metropolitan City" in 24 CFR 570.3 to include the term "principal city," and makes conforming changes to certain other sections of the CDBG regulations.

IV. Findings and Certifications

Justification for Interim Rulemaking

It is HUD's policy to publish rules for public comment before their issuance for effect, in accordance with 24 CFR part 10. Part 10 provides, however, that prior public procedure will be omitted if HUD determines that it is "impracticable, unnecessary, or contrary to the public interest" (24 CFR 10.0). HUD finds that good cause exists to publish this rule for effect without first soliciting public comment, in that prior public procedure is unnecessary and would be contrary to the public interest. Public procedure is unnecessary because this rule simply makes technical amendments that conform the CDBG regulations to new terminology adopted by OMB, in accordance with statutory authority. Delayed effectiveness pending public comment would be contrary to the public interest because potentially eligible cities would be deprived from receiving CDBG entitlement funds due to a change in nomenclature and other CDBG regulations may become misleading by referencing an obsolete term. HUD recognizes that adding principal cities may, depending on appropriations from Congress and the increased number of entitlement communities, result in

reduced funding for current entitlement communities. The exact impact of this rule cannot be quantified; some number of the newly qualified communities that meet OMB's designation criteria would have also met OMB's previous "central city" criterion. Additionally, a number of entitlement communities that qualify under the existing central city definition and that would not meet the definition of "principal city" will qualify for continued entitlement status because they meet section 102(a)(4) of the Act which provides that "any city that was classified as a metropolitan city for at least two years * * * shall remain classified as a metropolitan city." Although HUD believes issuing this interim rule for immediate effect will benefit the public overall, HUD will consider public comments on this issue prior to the publication of a final rule.

Executive Order 12866

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, *Regulatory Planning and Review*. OMB determined that this rule is a "significant regulatory action" (but not economically significant) as defined in section 3(f) of the Order. Any changes made in this rule subsequent to its submission to OMB are identified in the docket file. The docket file 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 General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC.

Environmental Impact

This rule simply revises existing HUD regulations by replacing "central city" or "central cities" with "principal city" or "principal cities," where applicable, in order to be consistent with OMB standards. This rule does not direct, provide for assistance or loan or mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition or new construction, nor does it establish, revise, or provide for standards for construction, construction materials, manufactured housing, or occupancy. This rule revises an existing document where the existing document as a whole would not fall under a categorical exclusion but the amendment by itself does so. Pursuant to 24 CFR 50.19(c)(1) and (c)(2), these revisions are categorically excluded from the environmental assessment required by the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

Impact on Small Entities

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 does not have a significant economic impact on a substantial number of small entities. There are no anti-competitive discriminatory aspects of the rule with regard to small entities and there are not any unusual procedures that need to be complied with by small entities. Although HUD has determined that this interim rule does not have a significant economic impact on a substantial number of small entities, HUD invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the executive order. This interim rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the executive order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This interim rule does not impose a federal mandate that will result in the expenditure by state, local, or tribal governments, in the aggregate, or the private sector, of \$100 million or more in any one year.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance (CFDA) program number is 14.218.

List of Subjects in 24 CFR Part 570

Administrative practice and procedure, Community development block grant, Grant programs—education, Grant programs, housing and community development, Indians, insular areas, Lead poisoning, Loan programs—housing and community development, Low- and moderate-income housing, New communities,

Pockets of poverty, Puerto Rico, Reporting and recordkeeping requirements, Small cities, Student aid.

■ Accordingly, for the reasons discussed in the preamble, HUD amends 24 CFR part 570 as follows:

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

- 1. The authority citation for part 570 continues to read as follows:
- Authority:** 42 U.S.C. 3535(d) and 5301–5320.
- 2. Amend § 570.3 by revising the definition of “metropolitan city” to read as follows:

§ 570.3 Definitions.

* * * *

Metropolitan city shall have the meaning provided in section 102(a)(4) of the Act except that the term “central city” is replaced by “principal city.”

* * * *

- 3. Amend § 570.4 by revising the introductory text of paragraphs (c) and (c)(3) to read as follows:
- § 570.4 Allocation of funds.**
- * * * *
- (c) In determining eligibility for entitlement and in allocating funds under section 106 of the Act for any federal fiscal year, HUD will recognize corporate status and geographical boundaries and the status of metropolitan areas and principal cities effective as of July 1 preceding such federal fiscal year, subject to the following limitations:
- * * * *
- (3) With respect to the status of Metropolitan Statistical Areas and principal cities, as officially designated by the Office of Management and Budget as of such date.
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- 4. Amend § 570.307 by revising the first sentence of paragraph (e)(1) to read as follows:
- § 570.307 Urban counties.**
- * * * *
- (e) *Grant ineligibility of included units of general local government.* (1) An included unit of general local government cannot become eligible for an entitlement grant as a metropolitan city during the period of qualification of the urban county (even if it becomes a principal city of a metropolitan area or its population surpasses 50,000 during that period). * * *
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- Dated: November 17, 2003.
- Roy A. Bernardi,**
Assistant Secretary for Community Planning and Development.
[FR Doc. 03–30748 Filed 12–11–03; 8:45 am]
- BILLING CODE 4210–29–P**