

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 570

[Docket No. FR-4070-F-03]

RIN 2528-AA06

Hispanic-Serving Institutions Work Study Program

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Final rule.

SUMMARY: On October 2, 1996, HUD published for public comment a Notice of Proposed Rulemaking (NPRM) for the Hispanic-serving Institutions Work Study Program. A Notice of Funding Availability (NOFA) for Fiscal Year (FY) 1996 for the program was separately published on that date. The NPRM stated that the requirements contained in the NOFA would provide the basis for a new regulatory provision governing HSI-WSP. The NPRM also solicited comments on the FY 1996 NOFA which would be used in preparing a final rule for the program. This final rule establishes the regulatory provisions for the Hispanic-serving Institutions Work Study Program (HSI-WSP). Under HSI-WSP, HUD awards grants to public and private non-profit Hispanic-serving community colleges for the purpose of providing assistance to economically disadvantaged and minority students who participate in a community development work study program while enrolled in a full-time Community Building Academic program.

EFFECTIVE DATE: May 9, 1997.

FOR FURTHER INFORMATION CONTACT: Jane Karadbil, Office of University Partnerships, U.S. Department of Housing and Urban Development, Room 8110, 451 Seventh Street SW., Washington, D.C. 20410, telephone (202) 708-1537, extension 218. Hearing or speech-impaired individuals may call HUD's TTY number (202) 708-1455, or 1-800-877-8399 (Federal Information relay Service TTY). (Other than the "800" number, these are not toll-free numbers. Ms. Karadbil can also be contacted via the Internet at Jane_R_Karadbil@hud.gov.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act Statement

The information collection requirements contained in this final rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction

Act of 1995 (44 U.S.C. 3501-3520) and have been assigned OMB control number 2528-0182. 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.

II. Background

A. Statutory Basis

The HSI-WSP is authorized by section 107(c) of the Housing and Community Development Act of 1974, as amended. 42 U.S.C. § 5307(c). This section (which was added by section 501(b)(2) of the Housing and Community Development Act of 1987) has served as authorization for the Department's Community Development Work Study Program (CDWSP) since that program's inception. It provides authority to, " * * * make grants to institutions of higher education, either directly or through areawide planning organizations or States, for the purpose of providing assistance to economically disadvantaged and minority students who participate in community development work study programs and are enrolled in full-time graduate or undergraduate programs in community and economic development, community planning, or community management."

Since Fiscal Year 1996, legislative history accompanying the Department's appropriations acts has earmarked a portion of the work study funds for Hispanic-serving institutions. This final rule establishes regulations governing the award of those funds under the Hispanic-serving Institutions Work Study Program (HSI-WSP). While CDWSP and HSI-WSP are subject to the same statutory requirements, they are implemented by different regulatory provisions.

B. The October 2, 1996 NOFA and NPRM

The October 2, 1996 HSI-WSP NOFA (published at 61 FR 51566) announced the requirements that would govern the use of funds earmarked for HSI-WSP for fiscal year 1996. The NPRM (published on the same date at 61 FR 51557) incorporated the NOFA by reference, stated HUD's intention to use the requirements contained in the NOFA as the basis for a final rule amending 24 CFR part 570, and invited public comment on the announced requirements that were proposed to be used in subsequent funding rounds.

The key requirements of the NOFA were:

—Eligibility was limited to two-year public or private non-profit community colleges determined by

the U.S. Department of Education to be Hispanic-serving Institutions.

—Eligible degree programs were limited to those related to community building. The term "community building academic degree program" was defined to include not only community or economic development, community planning, and community management, but also other academic programs that promote community or social services.

—Work experiences were required to be in a complementary community building job with a State or local government, areawide planning organization, Indian tribe, or private nonprofit organization involved in community building activities.

—All eligible students were required to be economically disadvantaged, regardless of whether they were members of minority groups. Eligible students were required to attend the institution full-time, be enrolled in an eligible community building degree program, not have attained more than half of the credits needed to graduate at the time they enter the program, and agree to work at an appropriate placement site 12-20 hours a week during the academic year and 35-40 hours a week during the summer.

—The amount of assistance to be provided per student was a maximum of \$13,200, which could include tuition and fees for up to two years, a work stipend, books, and an allowance of \$1,000 per student per year to cover the cost of the institution's administration of the program.

—The minimum number of students that could be assisted was three per participating institution of higher education and the maximum number was ten.

All of these requirements have been retained in the final rule.

C. Discussion of Public Comments on the NOFA and Clarifying Changes

There were two public comments—one from the United Cerebral Palsy Associations (UCPA) and one from Los Angeles Harbor College, one of the institutions eligible for the program.

UCPA urged applicants to consider work site experiences with United Cerebral Palsy affiliates. To the extent that the community building academic field may relate to the kind of work UCP affiliates and affiliates of other disability organizations are doing, HUD encourages applicants to consider these organizations as appropriate placement sites.

Los Angeles Harbor College recommended that the term "Tuition and Fees" be expanded to cover the cost of tutoring in order to enable students receiving assistance, especially those for whom English is a second language, to maintain the required B average. The Department agrees that such tutoring may be important for a student and, thus, should be an eligible program cost. However, rather than include this cost under "Tuition and Fees," it will be included under "Additional Support."

In the NPRM and the FY 1996 NOFA, the Department specifically requested comments on the proposed rule's requirement that students participating in HSI-WSP maintain a B average (as defined by the institution), and its lack of a minimum graduation rate requirement. No comments were received on these issues, and they remain unchanged in the final rule.

While there were no public comments submitted on the eligibility of transfer programs (i.e., those that lead to transfer to a four-year institution of higher education for the student's junior year), as opposed to those programs that provide terminal degrees (i.e., associate degrees), comments concerning this issue were raised in several public meetings held on the program. The final rule has been clarified to note that transfer programs in community building academic disciplines are eligible only if the student is required to declare his/her major in this discipline while at the community college. Thus, general liberal arts associate degrees, without a major, would not be considered eligible transfer programs.

In addition, the Department has received requests that the definition of eligible institutions be amended to include Hispanic-serving institutions that award BOTH two-year AND four-year degrees. As indicated in the FY 1996 NOFA, the Department specifically decided to limit eligibility under HSI-WSP to the 89 community colleges providing only two-year degrees. Creating a program to serve both two-year and four-year institutions would mean two sets of policies and requirements because of the different natures of such institutions. In addition, many four-year HSIs are universities that are eligible for the general Community Development Work Study Program. Thus, the Department chose to target community colleges providing only two-year degrees, in order to encourage and assist the previously under-served economically disadvantaged student population of community colleges to gain entry to pre-professional community building career paths. In order to clarify the

Department's intention that institutions providing BOTH two-year and four-year degrees are NOT eligible for HSI-WSP assistance, the definition of eligible institution has been modified accordingly. This modification is merely a clarification which effects no substantive change to the class of institutions that were eligible for HSI-WSP under the FY 1996 NOFA.

Finally, a number of other clarifications have been made which result in no substantive change to the rule.

III. Other Matters

A. Environmental Impact

In accordance with 24 CFR 50.19(b)(9) of the HUD regulations, the policies and procedures contained in this rule relate only to training grants and technical assistance, and therefore, are categorically excluded from the requirements of the National Environmental Policy Act.

B. Regulatory Flexibility

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this final rule, and in so doing, certifies that it will not have a significant economic impact on a substantial number of small entities. The rule only affects applicants and participants in the Hispanic-serving Institutions Community Work Study Program and will not have any meaningful economic impact on any other entity.

C. Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies and procedures contained in this notice 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. As a result, the notice is not subject to review under the Order. Specifically, the notice solicits participation by institutions of higher education in creating community development work study programs for some of their economically disadvantaged and minority students. The notice does not impinge upon the relationships between the Federal government and State or local governments.

D. Impact on the Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has

determined that this notice has the potential for beneficial impact on family formation, maintenance, and general well-being. The program will enable economically disadvantaged and minority students to get a college education, helping them to become self-sufficient. Accordingly, since the impact on the family is beneficial, no further review is necessary.

E. Executive Order 12866

This final rule was reviewed by the Office of Management and Budget under Executive Order 12866, Regulatory Planning and Review. Any changes made to the final rule as a result of that review are clearly identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC 20410-0500.

F. The Catalog of Federal Domestic Assistance Program

The Catalog of Federal Domestic Assistance program number is 14.513.

List of Subjects in 24 CFR Part 570

Administrative practice and procedure, American Samoa, Community development block grants, Grant programs—education, Grant programs—housing and community development, Guam, Indians, Lead poisoning, Loan programs—housing and community development, Low and moderate income housing, New communities, Northern Mariana Islands, Pacific Islands Trust Territory, Pockets of poverty, Puerto Rico, Reporting and recordkeeping requirements, Small cities, Student aid, Virgin Islands.

Accordingly, 24 CFR part 570 is amended as follows:

1. The authority citation for part 570 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 5300-5320.

2. Subpart E is amended to add a new § 570.416 to read as follows:

§ 570.416 Hispanic-serving institutions work study program.

(a) *Applicability and objectives.* HUD makes grants under the Hispanic-serving Institutions Work Study Program (HSI-WSP) to public and private non-profit Hispanic-serving Institutions (HSI's) of higher education for the purpose of providing assistance to economically disadvantaged and minority students who participate in a work study program while enrolled in full-time community college programs in community building, and to provide entry to pre-professional careers in these fields.

(b) *Definitions.* The following definitions apply to HSI-WSP:

Applicant means a public or private non-profit Hispanic-serving institution of higher education that offers only two-year degree programs, including at least one community building academic degree program, and that applies for funding under HSI-WSP.

Community building means community and economic development, community planning, community management, public policy, urban economics, urban management, urban planning, land use planning, housing, and related fields. Related fields include, but are not limited to, administration of justice, child development, and human services.

Community building academic program or *academic program* means an undergraduate associate degree program whose purpose and focus is to educate students in community building. The terms "community building academic program" or "academic program" refer to the types of academic programs encompassed in the statutory phrase "community or economic development, community planning or community management." For purposes of HSI-WSP, such programs include, but are not limited to, associate degree programs in community and economic development, community planning, community management, public administration, public policy, urban economics, urban management, urban planning, land use planning, housing, and related fields of study. Related fields of study that promote community building, such as administration of justice, child development, and human services are eligible, while fields such as natural sciences, computer sciences, mathematics, accounting, electronics, engineering, and the humanities (such as English or history) would not be eligible. A transfer program (i.e., one that leads to transfer to a four-year institution of higher education for the student's junior year) in a community building academic discipline is eligible only if the student is required to declare his/her major in this discipline while at the community college.

Community building field means any of the fields of study eligible under a community building academic program.

Economically disadvantaged and minority students means students who satisfy all the applicable guidelines established at the participating institution of higher education to measure financial need for academic scholarship or loan assistance, including, but not limited to, students with disabilities and students who are Black, American Indian/Alaska Native,

Hispanic, Asian/Pacific Islanders, where such students satisfy the financial needs guidelines defined above.

Hispanic-serving institution is an institution of higher education that the U.S. Department of Education has determined meets the criteria set out at 20 U.S.C. 1059c(b)(1), including the following: an institution that has an enrollment of undergraduate full-time students that is at least 25 percent Hispanic; in which not less than 50 percent of the Hispanic students are low-income individuals (i.e., 150 percent of the poverty level) who are first generation college students and another 25 percent are either low-income individuals or first generation college students. The U.S. Department of Education has determined the eligibility of specific institutions as HSIs and has issued a list of institutions meeting this definition. A list of HSI-WSP-eligible community colleges that are included in the Department of Education's list of HSIs will appear with each Notice of Funding Availability (NOFA) for the program. Only institutions on this list, or HSI-WSP-eligible institutions subsequently added to the U.S. Department of Education's list prior to that NOFA's application deadline, are eligible to apply for HSI-WSP funds.

HSI-WSP or *HSI-WSP program* means the Hispanic-serving Institutions Work Study program.

Institution of higher education means a public or private educational institution that offers two-year associate degrees in a community building academic program and that is accredited by an accrediting agency or association recognized by the Secretary of Education. Institutions offering BOTH four-year and two-year degrees are not eligible for HSI-WSP.

Recipient means an approved applicant that executes a grant agreement with HUD.

Student means a person attending the institution of higher education on a full-time basis, as defined by that institution and pursuing an eligible community building degree. Students must have attained no more than half of the credits required for their degree at the time they first receive assistance under HSI-WSP.

Student with disabilities means a student who meets the definition of a "person with disabilities" in the Americans with Disabilities Act of 1990.

(c) *Assistance provided*—(1) *Types of assistance available.* HUD provides funding in the form of grants to recipients who make assistance available to eligible students. Grants are provided to cover the costs of student

assistance and for an administrative allowance.

(2) *Maximum amount of assistance.* The maximum amount that can be provided to a student is \$13,200 a year, including \$1,000 for an administrative allowance, subject to the 20% limitation described at 570.416(c)(4) below. HUD will not set maximums on how much should be spent to each eligible expenditure, other than for administrative costs. The institution must be able to document that the amounts paid are customary for that institution and that it has actually paid that amount to the students. If a student is receiving a Pell grant, he/she may not receive funding for the same educational support through HSI-WSP. However, HSI-WSP can substitute for all or part of the Pell grant.

(3) *Student assistance.* Grants are provided in the form of student stipends, tuition support, and additional support.

(i) *Student stipend.* The amount of the student stipend should be based on the hourly rate for initial entry positions in the community building field and the number of hours worked by the student at the work placement assignment. The stipend should be sufficiently high to allow the student to earn the full stipend, as determined by the recipient, without working over 20 hours per week during the school year and 40 hours per week during the summer.

(ii) *Tuition support.* The amount of tuition support may not exceed the tuition and required fees charged at the participating institution of higher education.

(iii) *Additional support.* The recipient may provide additional support for books, tutoring, and travel related to the academic program or work placement assignment. Costs associated with reasonable accommodations for students with disabilities including, but not limited to, interpreters for the deaf/hard of hearing, special equipment, and braille materials are eligible under this category.

(4) *Administrative allowance.* HUD provides an allowance to recipients to cover the administrative costs of the program. The administrative allowance is \$1,000 per year for each student participating in the program; however, no more than 20 percent of the grant may be used for planning and program administrative costs.

(5) *Number of students assisted.* The minimum number of students that may be assisted is three students per participating institution of higher education. The maximum number of students that may be assisted is ten students per participating institution of

higher education; however, a lower maximum or higher minimum may be established for a particular funding round by the NOFA announcing the availability of the funds.

(d) *Recipient eligibility and responsibilities*—(1) *Recipient eligibility*. Public or private Hispanic-serving institutions of higher education offering only undergraduate two-year degrees, including degrees in at least one community building academic program, are eligible for assistance under HSI-WSP. HSIs that offer BOTH two-year and four-year degrees are not eligible for HSI-WSP assistance.

(2) *Recipient responsibilities*. The recipient is responsible for administering the program, for compliance with all program requirements, and for coordination of program activities carried out by the work placement agencies. The recipient must:

(i) Recruit students for participation in HSI-WSP. The recipient shall establish recruitment procedures that identify eligible economically disadvantaged and minority students pursuing careers in community building, and make them aware of the availability of assistance opportunities. While the program is restricted to HSIs, the recipient may neither restrict the program to any particular minority group or groups, nor provide any preferential treatment in the selection process based on race or ethnicity. Only economically disadvantaged students, as defined herein, may be assisted.

(ii) Select students for participation in HSI-WSP. In selecting among the eligible students, the recipient must consider the extent to which each student has demonstrated financial need under the applicable guidelines established at the institution of higher education; an interest in, and commitment to, a career in community building; and the ability to satisfactorily complete the academic and work placement responsibilities under HSI-WSP. Students must be selected before the beginning of the semester for which funding is being provided. If a student's participation terminates, the student may not be replaced; the grant will be reduced by the amount of unused funds allotted for that student.

(iii) Provide the educational component for participating students.

(iv) Recruit and select work placement agencies, and negotiate and execute an agreement covering each work placement assignment.

(v) Refer participating students to work placement agencies and assist students in the selection of work placement assignments.

(vi) Assign sufficient staff to administer and supervise the program on a day-to-day basis.

(vii) Encourage participating students to either: obtain post-graduation employment with a unit of State or local government, an areawide planning organization (APO), Indian tribe or nonprofit organization engaged in community building; or transfer to a four-year institution of higher education to obtain a bachelor's degree in a community building academic discipline.

(viii) Maintain records by racial and ethnic categories for each economically disadvantaged and minority student participating in HSI-WSP.

(ix) Keep records and make such reports as HUD may require.

(x) Comply with all other applicable Federal requirements.

(e) *Work placement agencies eligibility and responsibilities*—(1) *Eligibility*. To be eligible to participate in HSI-WSP, the work placement agency must be an agency of a State or local government, an APO, an Indian tribe, or a private nonprofit organization involved in community building activities. A work placement site that is part of the institution of higher education (e.g., a child care center) can only be an eligible site if the services provided by that site are offered to people in the broader community outside the institution.

(2) *Responsibilities*. Work placement agencies must:

(i) Provide practical experience and training in the community building field to participating students through work placement assignments.

(ii) Consult with the institution of higher education to ensure that the student's work placement assignment provides the requisite experience and training to meet the required number of work hours specified in the student work placement agreement.

(iii) Provide a sufficient number and variety of work assignments to provide participating students with a wide choice of work experience.

(iv) Require each student to devote 12–20 hours per week during the regular school year, and 35–40 hours a week during the summer, to the work placement assignment. Work placement agencies may provide flexibility in the work period, if such a schedule is consistent with the requirements of the student's academic program. However, a participating student may receive a stipend payment only during the period when the student is placed with the work placement agency.

(v) Comply with all other applicable Federal requirements.

(vi) Maintain such records as HUD may require.

(f) *Student eligibility and responsibilities*. Students apply directly to recipients receiving grants under HSI-WSP.

(1) *Eligibility*. To be eligible for HSI-WSP, the student:

(i) Must satisfy all applicable guidelines established at the participating institution of higher education to measure financial need for academic scholarship or loan assistance.

(ii) Must be a full-time student enrolled in a community building associate degree program at the participating institution of higher education. The student must have attained no more than 50 percent of the credits required for his/her degree at the time the student first receives assistance under this program.

(iii) Must demonstrate an ability to maintain a satisfactory level of performance in community building academic program (i.e., maintain a B average, as defined by the institution) and in work placement assignments, and comply with the professional standards set by the recipient and the work placement agencies.

(iv) May not have previously participated in HSI-WSP.

(2) *Student responsibilities*. Participating students must:

(i) Enroll or be enrolled in a two-year community building associate degree program. A student's academic and work placement responsibilities include: Full-time enrollment in an approved academic program; maintenance of a satisfactory level of performance in the community building academic program and in work placement assignments; and compliance with the professional conduct standards set by the recipient and by the work placement agency. A satisfactory level of academic performance consists of maintaining a B average, as defined by the institution. A student's participation in HSI-WSP shall be terminated for failure to meet these responsibilities and standards. If the student's participation is terminated, the student is ineligible for further HSI-WSP assistance.

(ii) Devote 12–20 hours per week during the regular school year, and 35–40 hours a week during the summer, to the work placement assignment. Work placement agencies may provide flexibility in the work period, if such a schedule is consistent with the requirements of the student's academic program. However, a participating student may receive a stipend payment only during the period when the student is placed with the work placement agency.

(iii) Agree to make a good-faith effort to either: obtain employment in community building with a unit of State or local government, an APO, an Indian tribe, or a non-profit organization; or to transfer to a four-year institution of higher education to obtain a bachelor's degree in a community building academic discipline. However, if the student does not obtain such employment or transfer to a four-year institution, the student is not required to repay the assistance received.

(g) *Notice of funding availability.* HUD will solicit grant applications from eligible institutions of higher education by publishing a notice of funding availability in the **Federal Register**. The notice will:

(1) Explain how application kits providing specific application requirements and guidance may be obtained;

(2) Specify the place for filing completed applications, and the date by which applications must be physically received at that location;

(3) State the amount of funding available under the notice, which may include funds recaptured from previously awarded grants;

(4) Provide other appropriate program information and guidance.

(h) *Agreements.*—(1) *Grant agreement.* The responsibilities of the recipient under HSI-WSP will be incorporated in a grant agreement executed by HUD and the recipient.

(2) *Student agreement.* The recipient and each participating student must execute a written agreement

incorporating their mutual responsibilities under HSI-WSP. The agreement must be executed before the student can be enrolled in the program. The Recipient shall terminate a student's participation in HSI-WSP for failure to meet the responsibilities and standards in the agreement.

(3) *Work placement assignment agreement.* The recipient, the student, and the work placement agency must execute a written agreement covering each work placement assignment. The agreement must address the responsibilities of each of the parties, the educational objectives, the nature of the supervision, the standards of evaluation, and the student's time commitments under the work placement assignment.

(i) *Grant administration.*—(1) *Initial obligation of funds.* When HUD selects an application for funding, HUD will obligate funds to cover the amount of the approved grant. The term of the award will be for two calendar years, unless subsequently altered by HUD at its discretion for good cause.

(2) *Disbursement.* Recipients will receive grant payments by direct deposit on a reimbursement basis. If that is not possible, grant payments will be made by U.S. Treasury checks.

(3) *Deobligation.* HUD may deobligate amounts for grants if proposed activities are not begun or completed within a reasonable period of time after selection.

(j) *Other Federal requirements.*—(1) *Applicability of part 570.* HSI-WSP shall be subject to the policies and procedures set forth in subparts A, K,

and O of 24 CFR part 570, as applicable, except as modified or limited under the provisions of this Notice. The provisions of subparts C and J of part 570 shall not apply to HSI-WSP.

(2) *Uniform Administrative requirements.* Recipients under HSI-WSP shall comply with the requirements and standards of OMB Circular No. A-22, "Cost Principles for Educational Institutions." Recipients that are private institutions of higher education shall comply with OMB Circular A-133, "Non-Federal Audit Requirements for Institutions of Higher Education and Other Nonprofit Institutions," which is implemented at 24 CFR part 45. Recipients that are public institutions of higher education shall comply with OMB Circular A-128, "Non-Federal Audit Requirements for State and Local Governments," which is implemented at 24 CFR part 44. Audits shall be conducted annually. In addition, all recipients under HSI-WSP shall comply with the provisions of OMB Circular A-110, "Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals and Other Non-Profit Organizations," which is implemented at 24 CFR part 84. OMB Circular A-110 shall apply to recipients in its entirety.

Dated: April 2, 1997.

Michael A. Stegman,
Assistant Secretary for Policy, Development
and Research

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