

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**24 CFR Part 92****[Docket No. FR-4111-P-01]****RIN 2501-AC30****HOME Investment Partnerships Program—Additional Streamlining****AGENCY:** Office of the Secretary, HUD.**ACTION:** Proposed rule.

SUMMARY: This rule proposes to streamline the HOME Program regulation by: replacing the hearing procedures of the current HOME rule with the Department-wide streamlined hearing procedures; removing the closeout requirements and instead providing that HOME funds will be closed out in accordance with procedures established by HUD; and replacing the extensive requirements for the competitive reallocation of HOME funds with a citation to the selection factors in the HOME statute and a statement of the maximum number of points that may be awarded for each factor. In addition, this rule invites comment on establishing a separate market interest rate formula for rehabilitation loans.

DATES: *Comment due date:* February 10, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address. FAXED comments will not be accepted.

FOR FURTHER INFORMATION CONTACT: Mary Kolesar, Director, Program Policy Division, Office of Affordable Housing Programs, Room 7162, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708-2470 (this is not a toll-free number). A telecommunications device for hearing- and speech-impaired persons (TTY) is available at 1-800-877-8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: On March 4, 1995, President Clinton issued a memorandum to all Federal departments and agencies regarding regulatory reinvention. In response to this memorandum, the Department of Housing and Urban Development

conducted a page-by-page review of its regulations to determine which can be eliminated, consolidated, or otherwise improved. HUD has determined that the regulations for the HOME Investment Partnerships Program can be improved and streamlined by eliminating unnecessary provisions.

As a part of HUD's regulatory reinvention initiative, this rule proposes three streamlining changes to, and a change to the market rate formula in, the HOME regulation at 24 CFR part 92.

For the first streamlining change, HUD proposes to replace the requirements for the competitive reallocation of HOME funds in § 92.453, which largely repeat the HOME statute at section 217(c) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(c)), with a citation to the selection criteria in the statute; the maximum number of points that may be awarded for each category of criteria (policies, actions, commitment), as is done in the current regulation; and a statement that such requirements will be published in a Notice of Funding Availability (NOFA) in accordance with the requirements of the HUD Reform Act as funds become available.

Second, this rule proposes to remove the closeout requirements specified in § 92.507 and instead provide that, "HOME funds will be closed out in accordance with procedures established by HUD."

Third and last, this rule would replace the hearing procedures in § 92.552 of the current HOME rule with the Department-wide, streamlined, hearing procedures of 24 CFR part 26 published as a final rule on September 24, 1996 (61 FR 50208).

The changes described above are consistent with the general reinvention goals of streamlining the requirements of HUD's funding programs and maximizing their administrative flexibility. For example, removing the current rigid and burdensome closeout requirements permits the Department to simplify the closeout process and administer it on the basis of the reports and other monitoring information it receives. In addition, every recipient of HUD funding and the Department itself would benefit from the adoption of uniform hearings procedures that would apply to all HUD programs.

The Department is considering making one additional change to the HOME program besides the three described above. The HOME rule currently requires a participating jurisdiction (PJ) wishing to claim match credit for the value of below-market interest rate loans to calculate the yield foregone based upon the difference

between the actual interest rate charged and the market interest rate established at § 92.220(a)(1)(iii)(B). The Department established the formula for determining the market interest rate for various types of projects based on assumptions involving first mortgage financing.

In the course of administering the program, the Department has received comments asserting that this method undervalues the match contribution of below-market interest rate financing for rehabilitation loans. HUD recognizes that loans for rehabilitation, whether for home improvements or renovation of rental housing, typically carry higher market interest rates than first mortgage financing for comparable projects. Consequently, the Department is considering amending § 92.220(a)(1)(iii)(B) to establish a separate market interest rate formula for rehabilitation loans. The Department is soliciting comments on this proposed change. Specifically, comment is requested on the formula to be used to establish this rate and whether separate rates for the type or tenure of housing would be appropriate.

Findings and Certifications***Paperwork Reduction Act***

The information collection requirements for the HOME Investment Partnerships Program have been approved by the Office of Management and Budget, under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520), and assigned OMB control number 2501-0013. This proposed rule does not contain additional information collection requirements.

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.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made 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 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, SW, Washington, D.C. 20410.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) has reviewed and approved this rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities, because jurisdictions that are statutorily eligible to receive formula allocations are relatively larger cities, counties or States. In addition, this rule only proposes to streamline regulations by removing unnecessary provisions. The rule will have no adverse or disproportionate economic impact on small businesses.

Federalism Impact

The General Counsel has determined, as the Designated Official for HUD under section 6(a) of Executive Order 12612, *Federalism*, that this rule does not have federalism implications concerning the division of local, State, and federal responsibilities. While the HOME Program interim rule was determined to be a rule with federalism implications and the Department submitted a Federalism Assessment concerning the interim rule to OMB, this proposed rule would only make limited adjustments to the interim rule and does not significantly affect any of the factors considered in the Federalism Assessment for the interim rule.

Impact on the Family

The General Counsel, as the designated official under Executive Order 12606, *The Family*, has determined that this rule would not have significant impact on family formation, maintenance, and general well-being. Assistance provided under this rule can be expected to support

family values, by helping families achieve security and independence; by enabling them to live in decent, safe, and sanitary housing; and by giving them the means to live independently in mainstream American society. This rule would not, however, affect the institution of the family, which is requisite to coverage by the Order.

The Catalog of Federal Domestic Assistance Number for the HOME Program is 14.239.

List of Subjects in 24 CFR Part 92

Grant programs—housing and community development, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, part 92 of title 24 of the Code of Federal Regulations would be amended to read as follows:

PART 92—HOME INVESTMENT PARTNERSHIPS PROGRAM

1. The authority citation for part 92 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 12701–12839.

2. Section 92.453 is revised to read as follows:

§ 92.453 Competitive reallocations.

(a) HUD will invite applications through Federal Register publication of a Notice of Funding Availability (NOFA), in accordance with section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545) and the requirements of sec. 217(c) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(c)), for HOME funds that become available for competitive reallocation under § 92.451 or § 92.452, or both. The NOFA will describe the application requirements and procedures, including the total funding available for the competition and any maximum amount of individual awards.

The NOFA will also describe the selection criteria and any special factors to be evaluated in awarding points under the selection criteria.

(b) The NOFA will include the selection criteria at sec. 217(c) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(c)), with the following maximum number of points awarded for each category of criteria:

(1) *Commitment*. Up to 25 points for the criteria at sec. 217(c)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(c)(1));

(2) *Actions*. Up to 50 points for the criteria at sec. 217(c)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(c)(2)); and

(3) *Policies*. Up to 25 points for the criteria at sec. 217(c)(3) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(c)(3)).

3. Section 92.507 is revised to read as follows:

§ 92.507 Closeout.

HOME funds will be closed out in accordance with procedures established by HUD.

4. In § 92.552, paragraph (b) is revised to read as follows:

§ 92.552 Notice and opportunity for hearing; sanctions.

* * * * *

(b) *Proceedings*. When HUD proposes to take action pursuant to this section, the respondent in the proceedings will be the participating jurisdiction or, at HUD's option, the State recipient. Proceedings will be conducted in accordance with 24 CFR part 26.

Dated: October 31, 1996.

Henry G. Cisneros,

Secretary.

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