

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

24 CFR Part 572

[Docket No. FR-3857-F-05]

RIN 2506-AB71

**Homeownership of Single Family
Homes Program (HOPE 3);
Streamlining Rule**

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

ACTION: Final rule.

SUMMARY: In compliance with the President's regulatory reform initiatives, this rule further streamlines HUD's regulations for the HOPE for Homeownership of Single Family Homes Program (HOPE 3) by eliminating remaining provisions that are unnecessarily expansive in light of existing statutory requirements.

EFFECTIVE DATE: July 24, 1997.

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

SUPPLEMENTARY INFORMATION: On March 4, 1995, President Clinton issued a memorandum to all Federal departments and agencies regarding regulatory reinvention. In response to this memorandum, the Department of Housing and Urban Development conducted a page-by-page review of its regulations to determine which can be eliminated, consolidated, or otherwise improved. HUD determined that the regulations for the HOPE for Homeownership of Single Family Homes program (HOPE 3) could be improved and streamlined. On September 16, 1996 (61 FR 48796), HUD published in the **Federal Register** a final rule that completed a previous rulemaking process on the HOPE 3 program regulations and made streamlining changes to those regulations for which prior notice and comment were not required.

On October 10, 1996 (61 FR 53276), HUD published a proposed rule containing further streamlining amendments for which prior notice and comment were required. In that rule,

HUD noted that because of recent statutory amendments, direct homeownership assistance is now a permanent eligible activity under both the HOME Investment Partnerships and Community Development Block Grant programs. As a result, families that might have been assisted by the HOPE 3 program may instead be eligible for homeownership assistance through those programs. The availability of other assistance makes future HOPE 3 appropriations and competitions less likely. Therefore, the HOPE 3 regulations on applications for funding include outdated references and are unnecessarily lengthy and prescriptive. The October 10, 1996 proposed rule sought to preserve those regulations only to the extent necessary to ensure HUD's ability to conduct future competitions in the event funds become available to make awards under the program.

Specifically, the October 10, 1996 rule proposed to remove most of the requirements relating to competitive distributions of HOPE 3 funds. In making such distributions, HUD is required to comply with section 102 of the Department of Housing and Urban Development Reform Act (HUD Reform Act) (42 U.S.C. 3545). The requirements of section 102 are binding, whether HUD maintains implementing provisions in regulatory text in the CFR or in separate published notices announcing competitions for funding. Therefore, it is unnecessary to maintain all of those requirements in the HOPE 3 regulations.

The October 10, 1996 rule also proposed to remove lengthy provisions explaining the Cash and Management Information System that is used to disburse HOPE 3 grant funds (see § 572.230). This information is contained in other guidance material and does not need to be codified.

The deadline for submitting public comments on the October 10, 1996 proposed rule was December 9, 1996. HUD has not received any comments on the proposed rule. Therefore, today's rule adopts the provisions of the proposed rule as final, eliminating approximately 5 pages of unnecessary regulations from the Code of Federal Regulations (CFR).

Findings and Certifications

Regulatory Flexibility Act

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. This rule merely recognizes administrative changes in HUD's structure and streamlines regulations by removing unnecessary provisions. The rule will have no adverse or disproportionate economic impact on small businesses.

Environmental Impact

In accordance with 24 CFR 50.19(c)(1), published in the **Federal Register** on September 27, 1996 (61 FR 50914), this final rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing (other than tenant-based rental assistance), rehabilitation, alteration, demolition, or new construction. This rule merely streamlines the HOPE 3 regulations by removing unnecessary provisions. Therefore, this final rule is categorically excluded from the requirements of the National Environmental Policy Act and the related Federal authorities in 24 CFR 50.4.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that this rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. No programmatic or policy changes will result from this rule that would affect the relationship between the Federal Government and State and local governments. As a result, the rule is not subject to review under the Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4; approved March 22, 1995) (UMRA) 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 on the private sector, within the meaning of the UMRA.

Catalog of Federal Domestic Assistance

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

List of Subjects in 24 CFR Part 572

Condominiums, Cooperatives, Fair housing, Government property, Grant

programs—housing and community development, Low and moderate income housing, Nonprofit organizations, Reporting and recordkeeping requirements.

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

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

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

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

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

§ 572.5 Definitions.

* * * * *

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

* * * * *

§ 572.100 [Amended]

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

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

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

* * * * *

(d) *Program income.* Any program income, as defined in § 572.5, received by the recipient may be added to the funds committed to the grant agreement

by HUD and the recipient, in accordance with the requirements of parts 84 and 85 of this title, as applicable.

5. Section 572.210 is revised to read as follows:

§ 572.210 Implementation grants.

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

(b) *Deadline for completion.* A recipient must spend all implementation grant amounts within 4 years from the effective date of the grant agreement. The appropriate HUD field office may approve a request to extend the deadline when it determines that an extension is warranted. A previously approved grant amount may not be amended to increase the grant amount.

(c) *Program closeout.* Recipients will comply with closeout procedures as issued by HUD.

6. Section 572.230 is revised to read as follows:

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

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

procedures specified by HUD in HUD's forms and issuances concerning the C/MI System.

7. Section 572.300 is revised to read as follows:

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

When funds are made available for planning grants or implementation grants under this part, HUD will publish a NOFA in the **Federal Register**, in accordance with the requirements of part 4 of this title, and will select applications for funding on a competitive basis as provided in the applicable NOFA.

§§ 572.305, 572.310, and 572.320 [Removed]

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

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

§ 572.420 Miscellaneous requirements.

(a) * * *

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

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Dated: June 16, 1997.

Jacque Lawing,

General Deputy Assistant, Secretary for Community Planning and Development.

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