

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

**Office of the Assistant Secretary for
Community Planning and
Development**

24 CFR Parts 594 and 595

[Docket No. R-95-1665; FR-3389-F-02]

RIN 2506-AB48

**John Heinz Neighborhood
Development Program**

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

ACTION: Final rule.

SUMMARY: The John Heinz
Neighborhood Development Program
was established as a permanent program
in the Housing and Community
Development Act of 1992. Previously,
the program had been administered by
the Department as a demonstration
program. Pending this final rule, the
permanent program has been
implemented through Notices of
Funding Availability (NOFAs)
published in the **Federal Register**. The
most recent NOFA was published on
February 24, 1995.

This final rule establishes the
requirements applicable to the
permanent program and contains HUD's
responses to comments received on the
proposed rule. The rule, which takes
effect before the deadline for
applications under the February 24
NOFA, will govern that NOFA and
future funding competitions that may be
announced from time to time.

EFFECTIVE DATE: April 28, 1995.

FOR FURTHER INFORMATION CONTACT:
Gene Hix, Grant Officer, Office of
Community Planning and Development,
Department of Housing and Urban
Development, Room 7218, 451 Seventh
Street SW., Washington, D.C. 20410;
telephone number (202) 708-2186. The
TDD number is (202) 708-1455. (These
are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The information collection
requirements contained in this rule have
been approved by the Office of
Management and Budget (OMB) under
the Paperwork Reduction Act of 1980.
The control number for information
collections described in this document
is 2535-0084.

Background

Section 832 of the Housing and
Community Development Act of 1992

(42 U.S.C. 5318a) established the John
Heinz Neighborhood Development
Program as a permanent program of the
Department. Previously, the program
had been authorized and operated as a
demonstration program, pursuant to
section 123 of the Housing and Urban-
Rural Recovery Act of 1983 (42 U.S.C.
5318 note). On June 8, 1993 (58 FR
32210), HUD published a proposed rule
addressing requirements of the
permanent program. This proposed rule
referenced a notice of funding
availability (NOFA) that was published
on the same day as the proposed rule
(58 FR 32215) and invited public
comment on the announced
requirements.

Discussion of Public Comments

The Department received only one
comment in response to the proposed
rule. The comment, from the National
Neighborhood Coalition, incorporated
four separate points that are addressed
in this section of the preamble.

(1) *Neighborhood resident
participation.* The commenter stated
that two conditions are critical to the
success and sustainability of the
organization and projects that it
undertakes. The comment emphasized
the importance of both participation by
residents of the neighborhood and a
governing body whose composition
reflects the demographic characteristics
of the neighborhood. HUD agrees with
this observation, and the final rule
indicates that NOFAs developed for this
program will give appropriate weight to
this factor.

(2) *Neighborhood Development
Funding Organizations (NDFO).*
Another comment questioned the
requirement that an applicant obtain the
participation of an NDFO (bank) located
within the neighborhood, noting that a
number of organizations do not have
bank branches located within their
neighborhoods. The final rule clarifies
this requirement by omitting any
requirement that the NDFO be located
within the neighborhood.

(3) *Record of past performance of an
applicant.* Another comment suggested
that the record of past performance of an
applicant is a critical factor. HUD took
this comment into consideration, but
believes that the record of past
performance is adequately reflected in
other factors. The final rule is
unchanged on this point.

(4) *Smaller Grants to Fledgling
Organizations.* The commenter also
suggested that HUD make smaller grants
in the \$5,000 to \$20,000 range to
fledgling organizations to help them get
started. HUD already has the authority
to make smaller grants to these

organizations; therefore, the final rule is
unchanged on this point.

Removal of Part 595

Currently 24 CFR part 595 contains
regulations for the Neighborhood Self-
Help Development Program. Although
this program was conceptually similar
to the John Heinz Neighborhood
Development Program, the authorizing
legislation for the Neighborhood Self-
Help Development Program was
repealed in 1981 (42 U.S.C. 8121 note,
95 Stat. 398). Therefore, the Department
is removing part 595 from the Code of
Federal Regulations, in order to avoid
confusion about the status of that
program.

Other Matters

Executive Order 12612, Federalism

The General Counsel, as the
Designated Official under section 6(a) of
Executive Order 12612, Federalism, has
determined that the policies contained
in this rule do 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 rule is not subject to review
under the Order. The program
implemented by this rule will provide
incentive funds to encourage
neighborhood organizations to become
more self-sufficient in their
development activities.

Executive Order 12606, the Family

The General Counsel, as the
Designated Official under Executive
Order 12606, The Family, has
determined that this rule has potential
for a significant impact on family
formation, maintenance, and general
well-being. The purpose of the program
implemented by this rule is to improve
neighborhood opportunities relating to
employment, business, housing, and the
provision of essential services, all of
which could benefit families
significantly. However, because the
impact on families is indirect and
beneficial, no further review is
considered necessary.

Environmental Review

At the time of publication of the
proposed rule, a finding of no
significant impact with respect to the
environment was made in accordance
with HUD regulations in 24 CFR part 50
that implement section 102(2)(C) of the
National Environmental Policy Act of
1969 (42 U.S.C. 4332). The proposed
rule is adopted by this final rule without
significant change. Accordingly, the

initial finding of no significant impact remains applicable, and is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the office of the Rules Docket Clerk at the above address.

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 does not have a significant economic impact on a substantial number of small entities. The rule establishes program regulations for the award of grants to neighborhood development organizations for the purpose of supporting local efforts to improve opportunities relating to employment, business, housing, and services within the participating neighborhoods.

Semiannual Agenda of Regulations

This rule was listed as Item No. 1842 in the Department's Semiannual Agenda of Regulations published on November 14, 1994 (59 FR 57632, 57663), in accordance with Executive Order 12866 and the Regulatory Flexibility Act.

The Federal Domestic Assistance Catalog number for this program is 14.242.

List of Subjects

24 CFR Part 594

Community development, Grant programs—housing and community development, Reporting and recordkeeping requirements, Urban renewal.

24 CFR Part 595

Community development, Grant programs—housing and community development, Urban renewal.

Accordingly, and under the authority of 42 U.S.C. 3535(d), 24 CFR chapter V is amended as follows:

1. Part 594 is added to read as follows:

PART 594—JOHN HEINZ NEIGHBORHOOD DEVELOPMENT PROGRAM

Subpart A—General

Sec.

- 594.1 Applicability and purpose.
- 594.3 Definitions.

Subpart B—Eligibility

- 594.5 Eligible applicants.
- 594.7 Other threshold requirements.
- 594.10 Eligible activities.

Subpart C—Funding Allocation and Criteria

- 594.15 Allocation amounts.
- 594.17 General criteria for competitive selection.

Subpart D—Award and Use of Grant Amounts

- 594.20 Submission procedures.
- 594.23 Approval and certification procedures.
- 594.25 Project administration.
- 594.28 Environmental reviews.
- 594.30 Equal opportunity and other Federal requirements.

Authority: 42 U.S.C. 3535(d) and 5318a.

Subpart A—General

§ 594.1 Applicability and purpose.

(a) *General.* This part establishes as a permanent program the John Heinz Neighborhood Development Program, as authorized by section 832 of the Housing and Community Development Act of 1992. Previously, the program had been administered by the Department as a demonstration program under Section 123 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note).

(b) *Purpose.* The program is intended to assist communities to become more viable, by providing incentive funds to carry out neighborhood development activities that benefit low- and moderate-income families. The program objectives are to increase the capacity of neighborhood organizations, promote long-term financial support for their neighborhood projects, and encourage greater participation of neighborhood organizations with private and public institutions.

§ 594.3 Definitions.

Empowerment zone means an area designated by HUD as an Empowerment Zone under 26 U.S.C. 1391–1393.

Enterprise community means an area designated by HUD as an Enterprise Community under 26 U.S.C. 1391–1393.

Grantee means an eligible neighborhood organization that executes a grant agreement with HUD under this part.

HUD means the Department of Housing and Urban Development.

Low- and moderate-income persons means families and individuals whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary of HUD in accordance with 42 U.S.C. 5302(a)(20).

Neighborhood development funding organization means:

(1) A depository institution, the accounts of which are insured pursuant to the Federal Deposit Insurance Act, 12 U.S.C. 1811 et seq., or the Federal Credit Union Act, 12 U.S.C. 1751 et seq., and

any subsidiary (as such term is defined in 12 U.S.C. 1813(w)) thereof;

(2) A depository institution holding company and any subsidiary (as such term is defined in 12 U.S.C. 1813(w)) thereof; or

(3) A company at least 75 percent of the common stock of which is owned by one or more insured depository institutions or depository institution holding companies.

Neighborhood development organization means the same as the term is defined in § 594.5.

Rural neighborhoods. In small cities with under 10,000 in population and in rural areas, a neighborhood area can be the same unit as the unit of general local government.

Unit of general local government means a city, town, township, county, parish, village, or other general purpose political subdivision of a State; an urban county; the Federated States of Micronesia; the Marshall Islands; or a general purpose political subdivision thereof.

Subpart B—Eligibility

§ 594.5 Eligible applicants.

(a) *General requirements.* To be eligible under this program, a neighborhood development organization must be located within the neighborhood for which assistance is to be provided. It cannot be a city-wide consortium, or, in general, an organization serving a large area of the city. The applicant must meet all of the following requirements:

(1) The organization must be incorporated as a private, voluntary, nonprofit corporation under the laws of the State in which it operates;

(2) The organization must be responsible through a governing body to the residents of the neighborhood it serves, and not less than 51 percent of the members of the governing body must be residents of the neighborhood;

(3) The organization must have conducted business for at least one year;

(4) The organization must operate within an area that meets at least one of the following criteria:

(i) The area meets the requirements for Federal assistance under section 119 of the Housing and Community Development Act of 1974, 42 U.S.C. 5318;

(ii) The area is designated as an Enterprise Community or Empowerment Zone under Federal law as enacted;

(iii) The area is designated as an enterprise zone under State law and is recognized by the Secretary as a State enterprise zone for purposes of this part; or

(iv) The area is a qualified distressed community within the meaning of section 233(b)(1) of the Bank Enterprise Act of 1991, 12 U.S.C. 1834a(b)(1); and

(5) The organization must have conducted one or more eligible neighborhood development activities that primarily benefit low- and moderate-income persons.

(b) *Special eligibility.* Any facility that provides small entrepreneurial business with affordable shared support services and business development services and that meets the requirements of paragraph (a) of this section may also be eligible to participate in this program.

§ 594.7 Other threshold requirements.

In addition, an applicant must meet the following threshold requirements:

(a) Specify a management business plan for accomplishing one or more of the eligible activities specified in § 594.10;

(b) Specify a strategy for achieving greater long-term private sector support, especially in cooperation with a neighborhood development funding organization; and

(c) Specify a strategy for increasing the capacity of the applicant.

§ 594.10 Eligible activities.

Eligible activities include, but are not limited to, the following:

(a) Developing economic development activities that include:

(1) Creating permanent jobs in the neighborhood; or

(2) Establishing or expanding businesses within the neighborhood;

(b) Developing new housing, rehabilitating existing housing, or managing housing stock within the neighborhood;

(c) Developing delivery mechanisms for essential services that have lasting benefits to the neighborhood; and

(d) Planning, promoting, or financing voluntary neighborhood improvement efforts.

Subpart C—Funding Allocation and Criteria

§ 594.15 Allocation amounts.

(a) *Amounts and match requirement.* HUD will make grants, in the form of matching funds, to eligible neighborhood development organizations. HUD reserves the right to make grants for less than the maximum amount established by statute, and to limit the number of times a previous grantee can receive funding. A Federal matching ratio will be established for each grantee in accordance with the statutory requirement that the highest ratios be established for neighborhoods

having the greatest degree of economic distress or the smallest number of households.

(b) *Administrative costs.* The Secretary may use no more than 5 percent of the funds appropriated for the program for administrative or other expenses in connection with the program.

§ 594.17 General criteria for competitive selection.

(a) *Criteria.* HUD will use the following general criteria for selecting and ranking applications for all competitions for John Heinz Neighborhood Development Program funds. The relative values for the criteria will be indicated in each NOFA:

(1) The degree of economic distress and the benefit to low- and moderate-income residents of the neighborhood;

(2) The past performance in carrying out eligible activities, and staff capability;

(3) The quality of the Management/Business Plan;

(4) The evidence of coordination and resident participation; and

(5) The quality of the strategy to increase the capacity of the organization and the strategy developed for meeting long-term financial needs.

(b) *Geographic diversity.* The Department also reserves the right to fund applicants in other than rank order, for the purpose of achieving geographic balance.

Subpart D—Award and Use of Grant Amounts

§ 594.20 Submission procedures.

(a) *Use of NOFAs.* The Department will publish a Notice of Funding Availability (NOFA) in the **Federal Register** for each funding competition under this program, indicating the objective of the competition; the amount of funding available; the application procedures, including the eligible applicants and activities to be funded; and any special conditions applicable to the competition, including the requirements for the match. The NOFA also will describe the maximum points to be awarded under each evaluation criterion, for the purpose of ranking applications, and any special factors to be considered in assigning the points to each criterion.

(b) Applications shall be submitted in accordance with the time, place, and content described in the NOFA.

(Approved by the Office of Management and Budget under control number 2535-0084)

§ 594.23 Approval and certification procedures.

(a) *Approval of application.* HUD's acceptance of an application for review does not imply a commitment to provide funding. HUD will provide notification of whether a project will be funded in accordance with the criteria and procedures set out in the applicable NOFA.

(b) *Certifications.* In the absence of independent evidence that tends to challenge in a substantial manner the certifications made by the applicant pursuant to § 594.30, the required certifications will be accepted by HUD.

However, if independent evidence is available that tends to challenge in a substantial manner an applicant's certification, HUD may require further information or assurances to be submitted in order to determine whether the applicant's certification is satisfactory.

§ 594.25 Project administration.

Project administration will be governed by the terms of the grant agreement.

§ 594.28 Environmental reviews.

(a) For all proposed actions or activities that are not considered categorically excluded under 24 CFR 50.20, HUD will perform the appropriate environmental reviews under the National Environmental Policy Act (NEPA).

(b) Whether the action or activity is categorically excluded from NEPA review or not, HUD will comply also with other applicable requirements of environmental statutes, Executive Orders, and HUD standards listed in 24 CFR 50.4. The environmental reviews will be performed before award of a grant. Grantees shall adhere to all assurances applicable to environmental concerns as contained in the RFGA and grant agreements.

§ 594.30 Equal opportunity and other Federal requirements.

Each participating neighborhood development organization must certify that it will carry out activities assisted under the program in compliance with:

(a) The requirements of the Fair Housing Act (42 U.S.C. 3601-3619) and implementing regulations at 24 CFR parts 100, 108, 109, 110, and 115; part 200, subpart M; and Executive Order 11063 (Equal Opportunity in Housing) (3 CFR, 1958-1963 Comp., p. 652) and implementing regulations at 24 CFR Part 107; and applicable provisions of the Civil Rights Act of 1964, 42 U.S.C. 2000a et seq., including Title VI (42 U.S.C. 2000d) (Nondiscrimination in

Federally Assisted Programs) and its implementing regulations at 24 CFR part 1;

(b) The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and implementing regulations at 24 CFR part 146; the prohibition against discrimination against individuals with a disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8; and the requirements of Executive Order 11246 (Equal Employment Opportunity) (3 CFR, 1964-1965 Comp., p. 339) and the implementing regulations issued at 41 CFR chapter 60;

(c) The requirements of section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u, and

implementing regulations at 24 CFR part 135;

(d) The requirements of Executive Order 11625 (3 CFR, 1971-1975 Comp., p. 616), Executive Order 12138 (3 CFR, 1979 Comp., p. 393), and Executive Order 12432 (3 CFR, 1983 Comp., p. 198). Consistent with HUD's responsibilities under these Orders, the grantee must make efforts to encourage the use of minority and women's business enterprises in connection with activities funded;

(e) The prohibitions against discrimination and related requirements of section 109 of the Housing and Community Development Act of 1974 (42 U.S.C. 5309);

(f) The requirements of the Americans with Disabilities Act (42 U.S.C. 12181-

12189) and implementing regulations at 28 CFR part 36, as applicable;

(g) The Consolidated Plan of the appropriate unit of general local government; and

(h) Other Federal requirements as specified in the applicable NOFA and application kit.

PART 595—[REMOVED AND RESERVED]

2. Part 595 is removed and reserved.

Dated: March 16, 1995.

Andrew Cuomo,

Assistant Secretary for Community Planning and Development.

[FR Doc. 95-7402 Filed 3-28-95; 8:45 am]

BILLING CODE 4210-29-P