

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**Office of the Assistant Secretary for Community Planning and Development****24 CFR Parts 510, 511, and 590**

[Docket No. FR-3938-F-01]

RIN 2506-AB76

Streamlining of Affordable Housing Programs

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

ACTION: Final rule.

SUMMARY: This rule revises the regulations for certain affordable housing programs within the Office of Community Planning and Development to eliminate outdated provisions and to streamline and simplify the remaining provisions.

EFFECTIVE DATE: March 25, 1996.

FOR FURTHER INFORMATION CONTACT: Gordon McKay, Director, Office of Affordable Housing Programs, Room 7168, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Telephone: (202) 708-2685; TTY: 1-800-877-8339. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: President Clinton's memorandum of March 4, 1995, titled "Regulatory Reinvention Initiative" directed heads of Federal departments and agencies to review all existing regulations to eliminate those that are outdated and modify others to increase flexibility and reduce burden. As a part of HUD's overall effort to reduce regulatory burden and streamline the content of title 24 of the Code of Federal Regulations, this rule revises 24 CFR parts 510, 511, and 590 to eliminate outdated provisions and to streamline and simplify the remaining provisions.

Part 510—Section 312 Rehabilitation Loan Program

Part 510 is eliminated except for § 510.105(h). Authority to make loans under the Section 312 Rehabilitation Loan Program was repealed as of October 1, 1991. However, since there are still loan collection functions associated with the program, § 510.105(h) is retained and revised to refer to loan assumption, which it still governs. Section 510.105(h) is also revised to change "Area Manager" to "Assistant Secretary for CPD," and to delete reference to local loan approval officers and to the statutory authority to

approve loans because the collection functions are now administered centrally. The waiver provision in § 510.104 is being consolidated into the Department-wide waiver regulation being promulgated separately.

Part 511—Rental Rehabilitation Grant Program

Section 511.3, "Technical Assistance," is eliminated because authority to make new grants under the program was repealed as of October 1, 1991, and no more technical assistance will be made available.

Section 511.5, "Waivers," is being consolidated into the Department-wide waiver regulation being promulgated separately.

In § 511.10, paragraph (d) is eliminated to remove a minimum project cost. This amendment will facilitate the use of small amounts of leftover program funds. A conforming change is made to § 511.11(a). Paragraph (a) of § 511.11 is also revised to remove the inflexible repayment requirement for incomplete projects. The last two sentences of § 511.11(c)(2)(iii) are deleted for conforming reasons. Also, paragraph (g) of § 511.11 (which lists the programs with which program grant amounts may not be used) is removed because the programs listed are governed by federally-imposed rent regulatory agreements or requirements and use of program funds in conjunction with these programs is not statutorily prohibited.

Subpart D is eliminated, except for § 511.33(c). Sections 511.30, 511.31, and 511.34 relate to formula allocations, which are no longer being made. In § 511.33, the references to reallocations in paragraphs (a), (b), and (d) are no longer applicable, since there is no remaining authority to "reallocate funds." Section 511.33(c) becomes a separate section regarding the deobligation of rental rehabilitation grant amounts. In § 511.33(c), the former first two sentences and the former fifth and sixth sentences are deleted because those provisions are now out of date and unnecessary. For similar reasons, in the former third (now second) sentence (requiring consultation with the grantee prior to deobligation), the reference to a reasonable start-up time for implementing a new program is deleted. In the former fourth (now first) sentence, the word "will" is changed to "may" and each of the time periods referred to therein is extended by one year, and clarifications are made. This assumes that the discretionary one-year extensions permitted by the former regulation were granted, and it authorizes, but no longer requires, HUD

to deobligate uncommitted or unexpended grant funds after the extended time periods have expired. Finally, a new third sentence is added which authorizes the applicable HUD field office to direct a grantee to proceed to close-out its rental rehabilitation program and to deobligate remaining funds when the field office determines, after consultation with the grantee, that any remaining uncommitted funds cannot be committed within a reasonable time, only small amounts of funds remain, and any incomplete projects cannot be completed within a reasonable time. The net effect of these changes is to empower HUD field offices and grantees with the necessary authority and flexibility to close out rental rehabilitation programs on an orderly, but timely, basis.

The first three sentences of § 511.50 regarding a State's election to administer a State allocation are deleted because they are no longer needed; all such allocations have already been made.

For similar reasons, in § 511.51(a), the phrase "that elects to administer its allocation in accordance with § 511.50" and paragraph (d) (regarding State administration of rental rehabilitation grant program for cities receiving a formula allocation) are deleted.

Section 511.52, "HUD-administered program," is eliminated because the authority to make new grants was repealed as of October 1, 1991. However, the rest of subpart F contains continuing, substantive requirements for States using grants obligated prior to repeal and, therefore, is retained.

Section 511.76(h)(2) is revised to allow grantees increased flexibility by permitting the use of program income for other affordable housing projects (which might include State or locally assisted projects) and does not limit them to using this program income for only RRP, HOME, HOPE, or CDBG activities.

Section 511.77(a) is revised to remove language regarding obligating funds for any fiscal year.

Section 511.80(a) is revised to eliminate the introductory reference to reallocations under § 511.33 because reallocations are no longer available under the program.

Section 511.81(b) is eliminated. The annual performance report is still required for grantees which are still actively expending funds, but the content of the report need not be specified in regulations.

Section 511.82(c)(2) is eliminated because conditioning the use of Rental Rehabilitation grant amounts from a succeeding fiscal year's allocation as a

corrective or remedial action is no longer possible.

Section 511.82(d) is revised to remove the first sentence referring to reallocation of grant amounts that become available from a succeeding fiscal year's allocation, because funds may not be reallocated to other grantees after October 1, 1991.

Part 590—Urban Homesteading Program

Section 590.1 is revised to reflect that authority to reimburse Federal agencies for transfer of additional properties to LUHAs under this part was repealed effective October 1, 1991.

Section 590.3, "Waiver authority," is being consolidated into the Department-wide waiver regulation being promulgated separately.

Section 590.5 is revised to remove the definitions of "Federally-owned property," "FmHA," "RTC," and "VA," since no additional properties may be transferred from any source.

In § 590.7, paragraphs (a), (b), and (c) are revised to remove unnecessary provisions and to streamline and conform the remaining provisions.

The following sections are eliminated because the authority to transfer properties under the program was repealed as of October 1, 1991, and the sections are no longer necessary:

§ 590.9 "Listing of Federally-owned properties"

§ 590.11 "Applications"

§ 590.13 "Standards for HUD review and approval of a local urban homesteading program"

§ 590.15 "Urban homesteading program participation agreement"

§ 590.17 "Transfer of HUD-owned property"

§ 590.18 "Reimbursement to FmHA, VA and RTC"

§ 590.21 "Reservation of funds"

Section 590.19, "Use of Section 810 funds," is revised to eliminate the first two sentences which reference the use of Section 810 funds. With no Section 810 funds available, discussion of fund use is unnecessary.

In § 590.23, paragraphs (a) and (c) are revised, and paragraph (d) is removed, to streamline the provisions by removing unnecessary regulatory detail regarding close-out.

In § 590.29, paragraphs (a) and (c) are revised to streamline the language regarding the review of LUHA performance.

In § 590.31, paragraph (c) is deleted, since conditioning a future participation request is no longer possible.

Other Matters:

Environmental Review. This rulemaking does not have an environmental impact. This rulemaking simply amends existing regulations by streamlining and simplifying the provisions and does not alter the environmental effect of the regulations being amended. Findings of No Significant Impact with respect to the environment were 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) at the time of development of the implementing regulations. Those findings remain applicable to this rule and are 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 because this rule pertains to the administrative matter of streamlining and simplifying provisions in title 24 of the Code of Federal Regulations.

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 does not have "federalism implications" because it does not have substantial direct effects on the States (including their political subdivisions), or on the distribution of power and responsibilities among the various levels of government.

Executive Order 12606, The Family. The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this rule does not have potential significant impact on family formation, maintenance, and general well-being.

List of Subjects

24 CFR Part 510

Lead poisoning, Loan programs—housing and community development, Relocation assistance, Reporting and recordkeeping requirements, Social security, Urban renewal.

24 CFR Part 511

Administrative practice and procedure, Grant programs—housing and community development, Lead poisoning, Low and moderate income housing, Reporting and recordkeeping requirements, Technical assistance.

24 CFR Part 590

Government property, Housing, Intergovernmental relations, Low and moderate income housing, Reporting and recordkeeping requirements, Urban renewal.

Accordingly, the Department amends title 24 of the Code of Federal Regulations, subtitle B, chapter V, parts 510, 511, and 590, as follows:

PART 510—SECTION 312 REHABILITATION PROGRAM

1. The authority for part 510 is revised to read as follows:

Authority: 42 U.S.C. 1452b and 3535(d).

PART 510—[AMENDED]

2. Part 510 is amended as follows:

a. All sections of part 510 are removed, except for § 510.105(h) (1), (2), and (3) which is redesignated as § 510.1 (a), (b), and (c), "Multi-family property loans."

§ 510.1 [Amended]

b. In newly redesignated § 510.1(a), the phrase "Area Manager" is removed and, in its place, the phrase "Assistant Secretary for CPD" is added; the phrase "or the approving officer where a locality has local section 312 loan approval authority," is removed; and the phrase "under section 312(a)(3) for approval" is removed and, in its place, the phrase "for assumption" is added.

PART 511—RENTAL REHABILITATION GRANT PROGRAM

3. The authority for part 511 continues to read as follows:

Authority: 42 U.S.C. 1437o and 3535(d).

§§ 511.3 and 511.5 [Removed and Reserved]

4. Sections 511.3 and 511.5 are removed and reserved.

§ 511.10 [Amended]

5. In § 511.10, paragraph (d) is removed and reserved.

6. Section 511.11 is amended by removing the last two sentences of paragraph (c)(2)(iii), by removing and reserving paragraph (g), and by revising paragraph (a), to read as follows:

§ 511.11 Project requirements.

(a) *Rehabilitation.* To receive assistance under this part, a project must require rehabilitation, measured by whether the project before the assisted rehabilitation does not meet the rehabilitation standards under § 511.10(e). If a project is terminated before completion of rehabilitation (as defined in § 511.2), whether voluntarily

by the grantee or otherwise, amounts equal to the rental rehabilitation grant amounts already dispersed for the project under the C/MI System are not eligible project costs, whether or not the grantee has already expended such grant amounts to pay for project costs. If such amount is not repaid, the grantee may be subject to corrective and remedial actions under § 511.82.

* * * * *

§§ 511.30, 511.31, 511.34 [Removed and Reserved]

7. Sections 511.30, 511.31 and 511.34 are removed and reserved.

8. Section 511.33 is revised to read as follows:

§ 511.33 Deobligation of rental rehabilitation grant amounts.

(a) Before deobligating grant amounts, HUD will consult with the affected grantee and take into account factors such as timing of the grantee's program year; the timing of State distributions to State recipients, if applicable; the timing of expected project approvals for projects in the grantee's pipeline; climatic or other considerations affecting rehabilitation work schedules; and other relevant considerations. In addition to any remedial deobligation under § 511.82, HUD may deobligate any rental rehabilitation grant amounts that are not:

(1) Committed to specific local projects within 3 years of the date of obligation of the grant under § 511.21(d) (4 years in the case of a State that distributes rental rehabilitation grant amounts to State recipients); or

(2) Expended for eligible costs within 5 years of such date of obligation (6 years in the case of a State that distributes rental rehabilitation grant amounts to State recipients).

(b) After such consultation, the HUD field office may direct the grantee to proceed with program closeout and may deobligate remaining unexpended grant amounts if the field office determines that any uncommitted funds will not be committed within a reasonable time, only small amounts of funds remain unexpended, or completion of uncompleted projects appears infeasible within a reasonable time. None of the time periods referred to in this section are extended by any suspensions of project set-ups or other remedial action imposed by HUD under this part.

§ 511.50 [Amended]

9. In § 511.50, paragraph (a) is amended by removing the first three sentences.

§ 511.51 [Amended]

10. In § 511.51, paragraph (a) is amended by removing the phrase "that elects to administer its allocation in accordance with § 511.50," and paragraph (d) is removed.

§ 511.52 [Removed and Reserved]

11. Section 511.52 is removed and reserved.

12. In § 511.76, paragraph (h)(2) is revised to read as follows:

§ 511.76 Program income.

* * * * *

(h) * * *

(2) Program income on hand at the time of program closeout or earned after program closeout may be contributed to HOME or HOPE program grantees as a cash matching contribution in accordance with applicable HOME or HOPE program rules, or may be used for activities that would be eligible under other affordable housing activities, as determined by the recipient.

13. In § 511.77, the introductory sentence is removed, and paragraph (a) is revised, to read as follows:

§ 511.77 Grant closeout.

(a) Each individual fiscal year rental rehabilitation grant will be closed out when all grant amounts for the grant to be closed out have been drawn down and expended for completed projects and/or administrative costs, or grant amounts not drawn down and expended have been deobligated by HUD.

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§ 511.80 [Amended]

14. In § 511.80, paragraph (a) is amended by removing the phrase "In addition to reviewing grantee performance for purposes of making reallocations under § 511.33," from the first sentence.

§ 511.81 [Amended]

15. In § 511.81, paragraph (b) is removed and reserved.

§ 511.82 [Amended]

16. In § 511.82, paragraph (c)(2) is removed and reserved, and the first sentence of paragraph (d) is removed.

PART 590—URBAN HOMESTEADING

17. The authority citation for part 590 continues to read as follows:

Authority: 12 U.S.C. 1706e; 42 U.S.C. 3535(d).

18. Section 590.1 is revised to read as follows:

§ 590.1 General.

This part applies to the completion of activities remaining under the Urban

Homesteading Program authorized under section 810(b) of the Housing and Community Development Act of 1974 (12 U.S.C. 1706e). Authority to reimburse Federal agencies for transfer of additional properties to LUHAs under this part was repealed effective October 1, 1991.

§§ 590.3, 590.9, 590.11, 590.13, 590.15, 590.17, 590.18, and 590.21 [Removed and Reserved]

19. Sections 590.3, 590.9, 590.11, 590.13, 590.15, 590.17, 590.18, and 590.21 are removed and reserved, and the first and second sentences of § 590.19 are removed.

§ 590.5 [Amended]

20. Section 590.5 is amended by removing the definitions of "Federally-owned property," "FmHA," "RTC," and "VA."

§ 590.7 [Amended]

21. Section 590.7 is amended as follows:

a. Paragraph (a) is removed and reserved;

b. Paragraph (b)(6) is amended by removing the last two sentences;

c. Paragraph (b)(8) is amended by removing the phrase "consistent with the coordinated approach to neighborhood improvement";

d. Paragraph (c)(1) is amended by removing the second sentence, and to remove the phrase "as described in §§ 590.13-.15 of this part" from the third sentence;

e. Paragraph (c)(2)(i) is amended by removing the phrase "VA, FmHA and RTC as described in § 590.11(a)(7)";

f. Paragraph (c)(2)(iii) is revised; and

g. Paragraphs (c)(3) and (c)(4) are removed, to read as follows:

§ 590.7 Program requirements.

* * * * *

(c) * * *

(2) * * *

(iii) Designate, and enter into a written agreement with, a qualified community organization (as defined in the Act) to act as LUHA in accordance with this part.

22. Section 590.23 is amended by revising paragraph (a), and by removing the last sentence of paragraph (c) and paragraph (d), to read as follows:

§ 590.23 Program close-out.

(a) *Initiation of close-out.* The LUHA shall institute close-out procedures, as prescribed by HUD.

* * * * *

23. In § 590.29, paragraph (a) introductory text, paragraph (a)(4), and paragraph (c) are revised to read as follows:

§ 590.29 HUD review of LUHA performance.

(a) HUD may review the performance of each active LUHA as necessary, as determined by HUD, to determine whether:

* * * * *

(4) The LUHA is making reasonable progress in moving properties through

the stages of the homesteading process, including acquisition, homesteader selection, conditional conveyance, rehabilitation, and final conveyance.

* * * * *

(c) LUHAs shall supply data and make available records necessary for HUD's monitoring of the LUHA's local urban homesteading program.

§ 590.31 [Removed and Reserved]

24. In § 590.31, paragraph (c) is removed and reserved.

Dated: February 13, 1996.

Andrew M. Cuomo,

Assistant Secretary for Community Planning and Development.

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