

**DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT**

[Docket No. FR-4098-N-03]

**Notice of Regulatory Waiver Requests  
Granted**

**AGENCY:** Office of the Secretary, HUD.

**ACTION:** Public notice of the granting of regulatory waivers from July 1, 1996 through September 30, 1996.

**SUMMARY:** Under the Department of Housing and Urban Development Reform Act of 1989 (Reform Act), the Department (HUD) is required to make public all approval actions taken on waivers of regulations. This notice is the twenty-third in a series, being published on a quarterly basis, providing notification of waivers granted during the preceding reporting period. The purpose of this notice is to comply with the requirements of Section 106 of the Reform Act.

**FOR FURTHER INFORMATION CONTACT:** For general information about this notice, contact Camille E. Acevedo, Assistant General Counsel for Regulations, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone 202-708-3055. (This is not a toll-free number.); Hearing-and speech-impaired persons may call HUD's TTY toll-free number at 1-800-877-8391.

For information concerning a particular waiver action for which public notice is provided in this document, contact the person whose name and address is set out for the particular item, in the accompanying list of waiver-grant actions.

**SUPPLEMENTARY INFORMATION:** As part of the Housing and Urban Development Reform Act of 1989, the Congress adopted, at HUD's request, legislation to limit and control the granting of regulatory waivers by the Department. Section 106 of the Act (Section 7(q)(3)) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(q)(3), provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary rank or equivalent rank, and the person to whom authority to waive is delegated must also have authority to *issue* the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that the Department has approved, by

publishing a notice in the Federal Register. These notices (each covering the period since the most recent previous notification) shall:

- a. Identify the project, activity, or undertaking involved;
- b. Describe the nature of the provision waived, and the designation of the provision;
- c. Indicate the name and title of the person who granted the waiver request;
- d. Describe briefly the grounds for approval of the request;
- e. State how additional information about a particular waiver grant action may be obtained.

Section 106 also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of today's document.

Today's document follows publication of HUD's Statement of Policy on Waiver of Regulations and Directives issued by HUD (56 FR 16337, April 22, 1991). This is the twenty-third notice of its kind to be published under Section 106. This notice updates HUD's waiver-grant activity from July 1, 1996 through September 30, 1996.

For ease of reference, waiver requests granted by departmental officials authorized to grant waivers are listed in a sequence keyed to the section number of the HUD regulation involved in the waiver action. For example, a waiver-grant action involving exercise of authority under 24 CFR 91.402 (involving the waiver of a provision in 24 CFR part 91) would come early in the sequence, while waivers of 24 CFR part 990 would be among the last matters listed. Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement in title 24 that is being waived as part of the waiver-grant action. (For example, a waiver of both § 92.2 and § 92.214(a)(3) would appear sequentially in the listing under § 92.2.) Waiver-grant actions involving the same initial regulatory citation are in time sequence beginning with the earliest-dated waiver grant action.

Should the Department receive additional reports of waiver actions taken during the period covered by this report before the next report is published, the next updated report will include these earlier actions, as well as those that occur between October 1, 1996 through December 31, 1996.

Accordingly, information about approved waiver requests pertaining to regulations of the Department is provided in the Appendix that follows this notice.

Dated: January 28, 1997.

Dwight P. Robinson,  
*Acting Secretary.*

Appendix—Listing of Waivers of Regulatory Requirements Granted by Officers of the Department of Housing and Urban Development July 1, 1996 Through September 30, 1996

Note to Reader: More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly before each set of waivers granted.

For Items 1 Through 33, Waivers Granted for 24 CFR Parts 91, 92, 291, 570, 572, and 576, Contact: Debbie Ann Wills, Field Management Officer, U.S. Department of Housing and Urban Development, Office of Community Planning and Development, 451 7th Street, S.W., Room 7152, Washington, D.C. 20410-7000, Telephone: (202) 708-2565. Hearing-and speech-impaired persons may call HUD's TTY toll-free number at 1-800-877-8391.

1. Regulation: 24 CFR 91.402

*Project/Activity:* The Montgomery County/Kettering Consortium of Ohio requested a waiver of 24 CFR 91.402 of the Consolidated Plan regulations to allow the Consortium until FY 1999 to complete the transition of aligning the start of the program year for all its Consortium members.

*Nature of Requirement:* The regulations at 24 CFR 91.402 state that all units of local government that are members of the consortium must be on the same program year for CDBG, HOME, Emergency Shelter Grants (ESG) and Housing Opportunities for Persons with Aids (HOPWA).

*Granted By:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* July 31, 1996.

*Reasons Waived:* The Assistant Secretary found good cause to grant the waiver of the regulations which requires that all Consortium members must have the same program start dates.

2. Regulation: 24 CFR 91.402

*Project/Activity:* The Auburn and King County Consortium of Washington requested a waiver of 24 CFR 91.402 of the Consolidated Plan, to allow the City of Auburn, which is a member of the Consortium, until FY 1999 to complete the transition of the City aligning the start of its program year with the Consortium.

*Nature of Requirement:* The regulations at 24 CFR 91.402, state that all units of local government that are members of the consortium must be on

the same program year for CDBG, HOME, Emergency Shelter Grants (ESG) and Housing Opportunities for Persons with Aids (HOPWA).

*Granted By:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* September 16, 1996.

*Reasons Waived:* The Assistant Secretary found good cause to grant the waiver of the regulations that requires that all consortium members must have the same program start dates.

3. Regulation: 24 CFR 91.520(a)

*Project/Activity:* Hartford, Connecticut, requested an extension of the deadline to submit its annual CDBG performance report to HUD.

*Nature of Requirement:* The regulations, at 24 CFR 91.520(a) of the CDBG regulations, require that each grant recipient submit a performance report to HUD within 90 days after the close of the grantee's program year.

*Granted By:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* September 16, 1996.

*Reasons Waived:* The Assistant Secretary determined that failure to grant the requested waiver would adversely affect the purposes of the Act, because the City would not be able to submit a complete and accurate performance report on its 1995 program year.

4. Regulation: 24 CFR 92.2

*Project/Activity:* Knox County, Tennessee, on behalf of Child and Family Services, Inc., requested a waiver of 24 CFR 92.2 regulations that establish the composition of Community Housing Development Organization (CHDO) Boards.

*Nature of Requirement:* The regulations at 24 CFR 92.2 require that one-third of the CHDO Board members must be residents of low-income neighborhoods.

*Granted by:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* August 21, 1996.

*Reasons Waived:* A determination was made that undue hardship would result if the non-profit organization was not designated as a CHDO.

5. Regulation: 24 CFR 92.214(a)(3)

*Project/Activity:* The State of North Dakota requested a waiver of the match provision of the HOME program.

*Nature of Requirement:* The regulations, at 24 CFR 92.214(a)(3) of the HOME regulations, implement the statutory provision that HOME program funds may not be used as a non-federal

matching contribution under any other federal program.

*Granted By:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* September 30, 1996.

*Reasons Waived:* Sections 208 and 234 of the Multifamily Property Disposition Reform Act of 1994 authorize HUD to suspend certain statutory and regulatory provisions that would otherwise apply to the use of CDBG and HOME funds, to address the damage in an area that the President has declared a disaster under Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

6. Regulation: 24 CFR 92.251

*Project/Activity:* The State of Arkansas requested a waiver to permit a rehabilitation project, which utilizes HOME funds, to use FHA Single Family Minimum Property Requirements in lieu of HQS for its HOME assisted homebuyer activities.

*Nature of Requirement:* The regulations at 24 CFR 92.251 provide that housing assisted with HOME funds meet, at a minimum, HUD housing quality standards (HQS), and provide other minimum standards for substantial rehabilitation and new construction.

*Granted By:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* August 22, 1996.

*Reasons Waived:* The waiver was granted because the State does not have the staff capacity to inspect all potential HOME properties for HQS compliance. It would also be difficult to locate qualified inspectors to perform HQS inspections in rural parts of the State. Finally, there would be an added cost on low-income borrowers to pay for a third-party inspection. The waiver was granted because the Assistant Secretary deemed that these factors would adversely affect the purposes of the Act.

7. Regulation: 24 CFR 92.252(a)(5)

*Project/Activity:* Madison, Wisconsin, requested a waiver to 24 CFR 92.252(a)(5), which requires that a HOME assisted project must remain affordable without regard to the term of any mortgage or the transfer of ownership for not less than the applicable affordability period.

*Nature of Requirement:* The HOME regulations, at 24 CFR 92.252(a)(5), state that the project is subject to a ten-year affordability period, which is enforced by a deed restriction.

*Granted By:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* August 22, 1996.

*Reasons Waived:* The waiver was granted because the hotel burned to the ground. The primary owners of the hotel determined that the hotel could not be rebuilt with the deed restriction and that they would repay the city the HOME assistance.

8. Regulation: 24 CFR 92.254(a)(ii)(A)

*Project/Activity:* Cook County, Illinois, requested a waiver to 24 CFR 92.254(a)(ii)(A), which requires that housing that is for purchase by a family qualifies as affordable housing only if the housing is subject to minimum periods of resale restrictions or recapture provision of the locality.

*Nature of Requirement:* The HOME regulations, at 24 CFR 92.254(a)(ii)(A), state that a participating jurisdiction must recoup all or a portion of the HOME assistance to the homebuyers, if the housing does not continue to be the principal residence of the family for the duration of the period of affordability.

*Granted By:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* August 22, 1996.

*Reasons Waived:* The waiver was granted because it was determined the restructuring provisions proposed by Cook County did not adversely affect the purposes of the HOME program.

9. Regulation: 24 CFR 92.258

*Project/Activity:* Sacramento Housing and Redevelopment Agency of Sacramento, California, requested a waiver of 24 CFR 92.258 of the HOME regulations, to waive the 30-year affordability period for low-income homebuyers receiving HOME assistance.

*Nature of Requirement:* The regulations, at 24 CFR 92.258, provide a limitation on the use of HOME funds with FHA mortgage insurance for a period of time equal to the term of the HUD-insured mortgage.

*Granted By:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* August 21, 1996.

*Reasons Waived:* The application of § 92.258 of the HOME regulations to the Agency's program would create an undue hardship for the City of Sacramento and its potential homeowners, and adversely affect the purposes of the Act.

10. Regulation: 24 CFR 92.258

*Project/Activity:* The City of Euclid, Ohio, requested a waiver of 24 CFR 92.258 of the HOME regulations to waive the 30-year affordability period for low-income homebuyers receiving HOME assistance.

*Nature of Requirement:* The regulations, at 24 CFR 92.258, provide a limitation on the use of HOME funds with FHA mortgage insurance for a period of time equal to the term of the HUD insured mortgage.

*Granted By:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* July 1, 1996.

*Reasons Waived:* The application of § 92.258 of the HOME regulations to the City's program would create an undue hardship for the City of Euclid and its potential homeowners, and adversely affect the purposes of the Act.

11. Regulation: 24 CFR 92.258

*Project/Activity:* Sacramento Housing and Redevelopment Agency of Sacramento, California, requested a waiver of 24 CFR 92.258 of the HOME regulations, to waive the 30-year affordability period for low-income homebuyers receiving HOME assistance.

*Nature of Requirement:* The regulations, at 24 CFR 92.258, provide a limitation on the use of HOME funds with FHA mortgage insurance for a period of time equal to the term of the HUD insured mortgage.

*Granted By:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* August 21, 1996.

*Reasons Waived:* The application of § 92.258 of the HOME regulations to the Agency's program would create an undue hardship for the City of Sacramento and its potential homeowners, and adversely affect the purposes of the Act.

12. Regulation: 24 CFR 92.258

*Project/Activity:* The City of Indianapolis, Indiana, requested a waiver of 24 CFR 92.258 of the HOME regulations, to waive the 30-year affordability period for low-income homebuyers receiving HOME assistance.

*Nature of Requirement:* The regulations, at 24 CFR 92.258, provide a limitation on the use of HOME funds with FHA mortgage insurance for a period of time equal to the term of the HUD-insured mortgage.

*Granted By:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* September 30, 1996.

*Reasons Waived:* The application of § 92.258 of the HOME regulations to the City's program would create an undue hardship for the City of Indianapolis and its potential homeowners, and adversely affect the purposes of the Act.

13. Regulation: 24 CFR 291.400(a)

*Project/Activity:* The Anoka County Community Action Program requested a

waiver of the 24-month residency for a tenant in a single family property leased under the single family property disposition homeless program.

*Nature of Requirement:* The regulations, at 24 CFR 291.400(a), prohibit a non-profit organization or a community participating in the Single Family Property Disposition Leasing Program from extending a lease to the same tenant for a period beyond 24 months.

*Granted By:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* September 16, 1996.

*Reasons Waived:* The waiver will allow a formerly homeless family more time to find permanent housing.

14. Regulation: 24 CFR 570.207

*Project/Activity:* Caryville, Florida, requested a waiver of the CDBG regulation to allow the town to use CDBG to reconstruct the damaged town hall on a new site outside of the 100 year flood plain.

*Nature of Requirement:* The regulations, at 24 CFR 570.207 of the CDBG regulations, prohibit the use of CDBG funds in buildings used for the general conduct of government.

*Granted By:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* September 16, 1996.

*Reasons Waived:* Sections 208 and 234 of the Multifamily Property Disposition Reform Act of 1994 authorize HUD to suspend certain statutory and regulatory provisions that would otherwise apply to the use of CDBG and HOME funds, to address the damage in an area that the President has declared a disaster under Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

15. Regulation: 24 CFR 570.208(a)(3)

*Project/Activity:* The City of Dallas, Texas requested a waiver of the CDBG regulations at 24 CFR 570.208(a)(3), to permit it to use CDBG funds for American Beauty Flour Mill which is an intown housing program. Thirty-three percent of the units will be set aside for low-and moderate-income persons.

*Nature of Requirement:* The regulations at 24 CFR 570.208(a)(3) require, as a general rule, that CDBG-assisted housing structures principally benefit low-and moderate-income households.

*Granted By:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* September 16, 1996.

*Reasons Waived:* The application of the regulations would create undue

hardship and adversely affect the purposes of the Act because it would impede the provision of affordable housing in the central business district. Denial of the request would further affect the City's ability to comply with the court ordered consent decree which directs the City to provide a wider range of low-income housing opportunities throughout the City.

16. Regulation: 24 CFR 570.483(b)(3)

*Project/Activity:* The State of Connecticut, on behalf of the Town of Thompson, requested a waiver of the national objective regulations of the State Community Development Block Grant Program.

*Nature of Requirement:* 24 CFR 570.483(b)(3) of the State CDBG regulations lists the methodology for determining low-and moderate-income benefit for housing activities funded with CDBG funds.

*Granted By:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* August 22, 1996.

*Reasons Waived:* The State was granted the waiver to permit the Town to use CDBG funds for acquisition of a mobile home site, which will be occupied by low-and moderate-income residents. The Assistant Secretary determined that failure to grant the requested waiver would adversely affect the purposes of the Act.

17. Regulation: 24 CFR 570.483(b)(3)

*Project/Activity:* The State of Rhode Island requested a waiver of the State CDBG regulations at 24 CFR 570.483(b)(3).

*Nature of Requirement:* The State requested a waiver of the regulations that set the standards for meeting national objectives.

*Granted By:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* September 16, 1996.

*Reasons Waived:* The State was granted the waiver to permit the Four Seasons Mobile Home Cooperative to use CDBG funds for acquisition of a mobile home site, which will be occupied by low-and moderate-income residents.

18. Regulation: 24 CFR 572.115(a)(1)

*Project/Activity:* Acorn Housing Corporation of Little Rock, Arkansas, requested a waiver to extend the time permitted for the transfer of HOPE 3 properties to eligible families.

*Nature of Requirement:* The regulations, at 24 CFR 572.115(a)(1), require that units in eligible properties must be transferred to eligible families

within two years of the effective date of the HOPE 3 implementation grant. The HUD field office may approve a request for an extension of a period not to exceed one year of that deadline.

*Granted By:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* July 15, 1996.

*Reasons Waived:* Based on progress made in transferring the subject properties, the Assistant Secretary found good cause to extend the property transfer deadline for one year.

19. Regulation: 24 CFR 572.115(a)(1)

*Project/Activity:* The City of Austin, Texas, requested a waiver to extend the time permitted for the transfer of HOPE 3 properties to eligible families.

*Nature of Requirement:* The regulations, at 24 CFR 572.115(a)(1), require that units in eligible properties must be transferred to eligible families within two years of the effective date of the HOPE 3 implementation grant. The HUD field office may approve a request for an extension of a period not to exceed one year of that deadline.

*Granted By:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* July 15, 1996.

*Reasons Waived:* Based on progress made in transferring the subject properties, the Assistant Secretary found good cause to extend the property transfer deadline for one year.

20. Regulation: 24 CFR 572.115(a)(1)

*Project/Activity:* Rural Housing Improvement, Inc. of Winchendon, Massachusetts, requested a waiver to extend the time permitted for the transfer of HOPE 3 properties to eligible families.

*Nature of Requirement:* The regulations, at 24 CFR 572.115(a)(1), require that units in eligible properties must be transferred to eligible families within two years of the effective date of the HOPE 3 implementation grant. The HUD field office may approve a request for an extension of a period not to exceed one year of that deadline.

*Granted By:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* September 16, 1996.

*Reasons Waived:* Based on progress made in transferring the subject properties, the Assistant Secretary found good cause to extend the property transfer deadline for one year.

21. Regulation: 24 CFR 572.115(a)(1)

*Project/Activity:* The Housing Authority of High Point, North Carolina, requested a waiver to extend the time

permitted for the transfer of HOPE 3 properties to eligible families.

*Nature of Requirement:* The regulations at 24 CFR 572.115(a)(1), require that units in eligible properties must be transferred to eligible families within two years of the effective date of the HOPE 3 implementation grant. The HUD field office may approve a request for an extension of a period not to exceed one year of that deadline.

*Granted By:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* July 22, 1996.

*Reasons Waived:* Based on progress made in transferring the subject properties, the Assistant Secretary found good cause to extend the property deadline transfer for one year.

22. Regulation: 24 CFR 572.115(a)(1)

*Project/Activity:* The City of Tucson, Arizona, requested a waiver to extend the time permitted for the transfer of HOPE 3 properties to eligible families.

*Nature of Requirement:* The regulations, at 24 CFR 572.115(a)(1), require that units in eligible properties must be transferred to eligible families within two years of the effective date of the HOPE 3 implementation grant. The HUD field office may approve a request for an extension of a period not to exceed one year of that deadline.

*Granted By:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* July 22, 1996.

*Reasons Waived:* Based on progress made in transferring the subject properties, the Assistant Secretary found good cause to extend the property deadline transfer for one year.

23. Regulation: 24 CFR 572.115(a)(1)

*Project/Activity:* Crowley Ridge Development Council of Arkansas requested a waiver to extend the time permitted for the transfer of HOPE 3 properties to eligible families.

*Nature of Requirement:* The regulations, at 24 CFR 572.115(a)(1), require that units in eligible properties must be transferred to eligible families within two years of the effective date of the HOPE 3 implementation grant. The HUD field office may approve a request for an extension of a period not to exceed one year of that deadline.

*Granted By:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* September 16, 1996.

*Reasons Waived:* Based on progress made in transferring the subject properties, the Assistant Secretary found good cause to extend the property deadline transfer for one year.

24. Regulation: 24 CFR 572.115(a)(1)

*Project/Activity:* The City of Milwaukee, Wisconsin, requested a waiver to extend the time permitted for the transfer of HOPE 3 properties to eligible families.

*Nature of Requirement:* The regulations, at 24 CFR 572.115(a)(1), require that units in eligible properties must be transferred to eligible families within two years of the effective date of the HOPE 3 implementation grant. The HUD field office may approve a request for an extension of a period not to exceed one year of that deadline.

*Granted By:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* September 20, 1996.

*Reasons Waived:* Based on progress made in transferring the subject properties, the Assistant Secretary found good cause to extend the property deadline transfer for one year.

25. Regulation: 24 CFR 576.21

*Project/Activity:* The Government of Puerto Rico requested a waiver of the Emergency Shelter Grants regulations at 24 CFR 576.21.

*Nature of Requirement:* The Government requested a waiver of the ESG expenditure limitation on essential services.

*Granted By:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* July 22, 1996.

*Reasons Waived:* Under the Stewart B. McKinney Homeless Assistance Act, amended by the National Affordable Housing Act, the 30 percent cap on essential services may be waived if the grantee "demonstrates that the other eligible activities under the program are already being carried out in the locality with other resources". The Government provided a letter that demonstrated that other categories of ESG activities will be carried out locally with other resources, therefore, it was determined that the waiver was appropriate.

26. Regulation: 24 CFR 576.21

*Project/Activity:* Hennepin County, Minnesota, requested a waiver of the Emergency Shelter Grants regulations at 24 CFR 576.21.

*Nature of Requirement:* The County requested a waiver of the ESG expenditure limitation on essential services.

*Granted By:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* July 22, 1996.

*Reasons Waived:* Under the Stewart B. McKinney Homeless Assistance Act,

amended by the National Affordable Housing Act, the 30 percent cap on essential services may be waived if the grantee "demonstrates that the other eligible activities under the program are already being carried out in the locality with other resources". The County provided a letter that demonstrated that other categories of ESG activities will be carried out locally with other resources, therefore, it was determined that the waiver was appropriate.

27. Regulation: 24 CFR 576.21

*Project/Activity:* Honolulu County, Hawaii, requested a waiver of the Emergency Shelter Grants regulations at 24 CFR 576.21.

*Nature of Requirement:* The County requested a waiver of the ESG expenditure limitation on essential services.

*Granted By:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* July 22, 1996.

*Reasons Waived:* Under the Stewart B. McKinney Homeless Assistance Act, amended by the National Affordable Housing Act, the 30 percent cap on essential services may be waived if the grantee "demonstrates that the other eligible activities under the program are already being carried out in the locality with other resources". The County provided a letter that demonstrated that other categories of ESG activities will be carried out locally with other resources, therefore, it was determined that the waiver was appropriate.

28. Regulation: 24 CFR 576.21

*Project/Activity:* Morris County, New Jersey, requested a waiver of the Emergency Shelter Grants regulations at 24 CFR 576.21.

*Nature of Requirement:* The County requested a waiver of the ESG expenditure limitation on essential services.

*Granted By:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* July 22, 1996.

*Reasons Waived:* Under the Stewart B. McKinney Homeless Assistance Act, amended by the National Affordable Housing Act, the 30 percent cap on essential services may be waived if the grantee "demonstrates that the other eligible activities under the program are already being carried out in the locality with other resources". The County provided a letter that demonstrated that other categories of ESG activities will be carried out locally with other resources, therefore, it was determined that the waiver was appropriate.

29. Regulation: 24 CFR 576.21

*Project/Activity:* The State of Massachusetts requested a waiver of the Emergency Shelter Grants Regulations at 24 CFR 576.21.

*Nature of Requirement:* The State requested a waiver of the ESG expenditure limitation on essential services.

*Granted By:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* July 22, 1996.

*Reasons Waived:* Under the Stewart B. McKinney Homeless Assistance Act, amended by the National Affordable Housing Act, the 30 percent cap on essential services may be waived if the grantee "demonstrates that the other eligible activities under the program are already being carried out in the locality with other resources". The State provided a letter that demonstrated that other categories of ESG activities will be carried out locally with other resources, therefore, it was determined that the waiver was appropriate.

30. Regulation: 24 CFR 576.21

*Project/Activity:* The City of Onondaga, New York, requested a waiver of the Emergency Shelter Grants Regulations at 24 CFR 576.21.

*Nature of Requirement:* The City requested a waiver of the ESG expenditure limitation on essential services.

*Granted By:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* August 22, 1996.

*Reasons Waived:* Under the Stewart B. McKinney Homeless Assistance Act, amended by the National Affordable Housing Act, the 30 percent cap on essential services may be waived if the grantee "demonstrates that the other eligible activities under the program are already being carried out in the locality with other resources". The City provided a letter that demonstrated that other categories of ESG activities will be carried out locally with other resources, therefore, it was determined that the waiver was appropriate.

31. Regulation: 24 CFR 576.21

*Project/Activity:* The Municipality of Caguas, Puerto Rico, requested a waiver of the Emergency Shelter Grants Regulations at 24 CFR 576.21.

*Nature of Requirement:* The City requested a waiver of the ESG expenditure limitation on essential services.

*Granted By:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* August 22, 1996.

*Reasons Waived:* Under the Stewart B. McKinney Homeless Assistance Act, amended by the National Affordable Housing Act, the 30 percent cap on essential services may be waived if the grantee "demonstrates that the other eligible activities under the program are already being carried out in the locality with other resources". The City provided a letter that demonstrated that other categories of ESG activities will be carried out locally with other resources, therefore, it was determined that the waiver was appropriate.

32. Regulation: 24 CFR 576.21

*Project/Activity:* The State of New York requested a waiver of the Emergency Shelter Grants Regulations at 24 CFR 576.21.

*Nature of Requirement:* The State requested a waiver of the ESG expenditure limitation on essential services.

*Granted By:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* September 20, 1996.

*Reasons Waived:* Under the Stewart B. McKinney Homeless Assistance Act, amended by the National Affordable Housing Act, the 30 percent cap on essential services may be waived if the grantee "demonstrates that the other eligible activities under the program are already being carried out in the locality with other resources". The State provided a letter that demonstrated that other categories of ESG activities will be carried out locally with other resources, therefore, it was determined that the waiver was appropriate.

33. Regulation: 24 CFR 576.55(a)(2)(ii)

*Project/Activity:* Morris County, New Jersey requested a waiver of the Emergency Shelter Grants Regulations at 24 CFR 576.55(a)(2)(ii).

*Nature of Requirement:* The Stewart B. McKinney Homeless Assistance Act requires that each local recipient spend all of its grant amount within 24 months of the date on which the County made the grant amounts available to the County recipient.

*Granted By:* Andrew Cuomo, Assistant Secretary for Community Planning and Development.

*Date Granted:* July 22, 1996.

*Reasons Waived:* The County received a waiver of the 24 month ESG expenditure deadline because it needed to expand the shelter and provide the necessary facilities to accommodate homeless families and handicapped individuals. Therefore, the homeless population would suffer undue hardship without the renovation and

expansion monies from the ESG needed for the expansion and renovation of this facility.

For Items 34 and 35, Waivers Granted for 24 CFR Part 950, Contact: Mr. Dominic Nessi, Deputy Assistant Secretary for Native American Programs, National Office of Native American Programs, 1999 Broadway, Suite 3390, Box 90, Denver, CO 80202, (303) 675-1600, Hearing- and speech-impaired persons may call HUD's TTY toll-free number at 1-800-877-8391.

34. Regulation: 24 CFR 950.455(b)(1)

*Project/Activity:* Conversion of Indian housing units at Fort McDowell Mohave-Apache Housing Authority Indian Housing.

*Nature of Requirement:* Dwelling units must be in "decent, safe and sanitary condition" prior to their conversion from the Rental Program to the Mutual Help Homeownership Opportunity Program.

*Granted By:* Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

*Date Granted:* July 29, 1996.

*Reasons Waived:* This waiver was granted to permit the conversion and subsequent conveyance to homebuyers of the subject dwelling units. The homebuyers have sufficient financial resources to bring the conversion units into decent, safe and sanitary condition without HUD's assistance.

35. Regulation: 24 CFR 950.455(b)(2)

*Project/Activity:* Conversion of Indian housing units at Fort McDowell Mohave-Apache Housing Authority Indian Housing.

*Nature of Requirement:* This regulation requires tenants or other applicants to qualify as homebuyers in order to be eligible for conversion.

*Granted By:* Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

*Date Granted:* July 29, 1996.

*Reasons Waived:* Permits current tenants to qualify for the program despite outstanding tenant accounts receivable because these potential homebuyers now possess the financial capability to maintain the homes that will be conveyed to them.

For Items 36 Through 41, Waivers Granted for 24 CFR Part 990, Contact: Mary Ann Russ, Deputy Assistant Secretary, Office of Public and Assisted Housing Operations, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4226, Washington, DC 20410, (202) 708-1842 (THIS IS NOT A TOLL-FREE NUMBER). Hearing- and speech-impaired persons

may call HUD's TTY toll-free number at 1-800-877-8391.

36. Regulation: 24 CFR 990.108(b)(2)(iv)

*Project/Activity:* Tennessee Valley Regional Housing Authority. In determining the operating subsidy eligibility, a request was made for funding more than one site in a project approved for non-dwelling use to promote an anti-drug program.

*Nature of Requirement:* The operating subsidy calculation limits funding for units removed from the dwelling rental inventory for economic self-sufficiency or anti-drug programs to one site per project.

*Granted By:* Kevin Emmanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

*Date Granted:* August 14, 1996.

*Reason Waived:* To take into account the size of developments in a housing authority when determining the number of sites funded in a project. Because this was a large project, three additional sites were approved to be used for crafts, educational videos and films, special speakers and programs, adult education classes, and the youth sports program.

37. Regulation: 24 CFR 990.108(b)(2)(iv)

*Project/Activity:* Seattle, WA, Housing Authority. In determining the operating subsidy eligibility, a request was made for funding more than one site in a project approved for non-dwelling use to promote an anti-drug program.

*Nature of Requirement:* The operating subsidy calculation limits funding for units removed from the dwelling rental inventory for economic self-sufficiency or anti-drug programs to one site per project.

*Granted By:* Kevin Emmanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

*Date Granted:* September 23, 1996.

*Reasons Waived:* To take into account the size of developments in a housing authority when determining the number of sites funded in a project. Because this was a large project, four additional sites were approved to be used for Economic Self-Sufficiency and Anti-Drug programs.

38. Regulation: 24 CFR 990.108(e)

*Project/Activity:* Housing Authority of New Orleans, LA.

*Nature of Requirement:* When unit months are lost through combining small units into larger units, they must be removed from the calculation of unit months available in the PFS subsidy calculation.

*Granted By:* Michael B. Janis, General Deputy Assistant Secretary for Public and Indian Housing.

*Date Granted:* August 12, 1996.

*Reasons Waived:* Because of problems the HA has experienced filling vacant efficiency units for the elderly, the HA converted them to one-bedroom units which could rent. In order to support the HA's efforts to reduce vacancies, approval was granted for the HA to include the Allowable Expense Level for the number of unit months which would be lost through this conversion in future PFS calculations.

39. Regulation: 24 CFR 990.109

*Project/Activity:* Housing Authority of the City of Oakland, CA. A request was made to permit the Authority to benefit from energy performance contracting for developments which have tenant-paid utilities. The HA estimates that it could increase savings substantially if it were able to undertake energy performance contracting for both PHA-paid and tenant-paid utilities.

*Nature of Requirement:* Under 24 CFR part 990, the Performance Funding System (PFS) energy conservation incentive that relates to energy performance contracting currently applies only to PHA-paid utilities. The OHA has both PHA-paid and tenant-paid utilities.

*Granted By:* Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

*Date Granted:* September 25, 1996.

*Reasons Waived:* The waiver was granted because the OHA presented a sound and reasonable methodology for PHAs with tenant-paid utilities to participate in energy cost reduction incentives that will benefit both PHAs and HUD. The waiver permits the OHA to exclude from its PFS calculation of rental income increased rental income due to the difference between updated baseline utility allowances (before implementation of the energy conservation measures) and revised allowances (after implementation of the measures) for the project(s) involved for the duration of the contract period, which cannot exceed 12 years.

40. Regulation: 24 CFR 990.109(b)(3)(iv)

*Project/Activity:* Kinsley, Kansas Housing Authority. A request was made to use the HA's actual occupancy rate and recalculate its operating subsidy eligibility.

*Nature of Requirement:* The Regulation requires a Low Occupancy PHA without an approved Comprehensive Occupancy Plan to use a projected occupancy percentage of 97%.

*Granted By:* Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

*Date Granted:* August 2, 1996.

*Reasons Waived:* The Kinsley Housing Authority is a small HA which has pursued many vacancy reduction strategies during the past several years. The HA was allowed to use its actual occupancy percentage to prevent undue hardships while it continues its efforts to reduce vacancies.

41. Regulation: 24 CFR 990.109(b)(3)(iv)

*Project/Activity:* Breckenridge, MN, Housing and Redevelopment Authority. A request was made to use the HA's actual occupancy rate of 94% and

recalculate its operating subsidy eligibility.

*Nature of Requirement:* The regulation requires a Low Occupancy PHA without an approved Comprehensive Occupancy Plan to use a projected occupancy percentage of 97%.

*Granted By:* Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

*Date Granted:* August 28, 1996.

*Reasons Waived:* Breckenridge is a small HA which has pursued many vacancy reduction strategies for the past several years. The HA was allowed to use its actual occupancy percentage to

prevent undue hardships while it continues its efforts to reduce vacancies. The HA was also notified that for its subsequent budget years beginning with 4/1/97, it will be subject to the provisions of the new Vacancy Rule, dated 4/1/96. Therefore, if the HA continues to experience vacancy problems attributable to circumstances or actions beyond its control, it may have to consider its vacant units as being long-term vacancies and eligible only for reduced subsidy.

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