

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 92, 570, 572, 574, 576, 582, 583, and 585

[Doc. No. FR-4782-P-01]

RIN 2501-AC89

Participation in HUD Programs by Faith-Based Organizations; Providing for Equal Treatment of All HUD Program Participants

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise those HUD regulations that impose unwarranted barriers to the participation of faith-based organizations in HUD programs and implement HUD's policy that, within the framework of constitutional church-state guidelines, faith-based organizations should be able to compete on an equal footing with other organizations for HUD funding. HUD supports the participation of faith-based organizations in its programs.

DATES: *Comments Due Date:* March 7, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for inspection and copying between 7:30 a.m. and 5:30 p.m. at the above address.

FOR FURTHER INFORMATION CONTACT: Steven Wagner, Director, Center for Faith-Based and Community Initiatives, Department of Housing and Urban Development, Room 10184, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708-2404 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this telephone number via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339. For program specific information, contact the following offices in HUD's Office of Community Planning and Development: For the HOME Program and the HOPE for Homeownership of Single Family Homes (HOPE 3), Virginia Sardone, Director, Program Policy Division, Office of Affordable Housing Programs, (202) 708-2864; for the Community

Development Block Grants Program, Robert Duncan, Office of Block Grant Assistance (202) 708-3587; and for the remaining programs, John Garrity, Office of Special Needs Assistance Programs, (202) 708-4300. (These numbers are not toll-free numbers.) Hearing- or speech-impaired individuals may access this telephone number via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

I. Background

Faith-based organizations are an important part of the social services network of the United States, offering a multitude of social services to those in need. In addition to places of worship, faith-based organizations may include small nonprofit organizations created to provide one program or multiple services, as well as neighborhood groups formed to respond to a crisis or to lead community renewal. Faith-based groups everywhere, either acting alone or as partners with other service providers and government programs, serve the poor, and help to strengthen families and rebuild communities.

All too often, however, federal policy and programs have not recognized faith-based groups as resources for providing social assistance. Federal, state, and local governments have often imposed barriers to the participation of religious organizations in social service programs, including unwarranted regulatory barriers.

President Bush has directed the federal agencies, including HUD, to take steps to ensure that federal policy and programs are fully open to faith-based community groups in a manner that is consistent with the Constitution. The Administration believes that faith-based groups possess an under-appreciated ability to meet the needs of poor Americans and revitalize distressed neighborhoods. The Administration believes that there should be an equal opportunity for *all* organizations—both faith-based and nonreligious—to participate as partners in federal programs.

As part of these efforts, President Bush issued Executive Order 13198 on January 29, 2001. The Order was published in the **Federal Register** on January 31, 2001 (66 FR 8499). Executive Order 13198 created Centers for Faith-Based and Community Initiatives in five cabinet departments—HUD, Health and Human Services, Education, Labor, and Justice. The Executive Order charged the Centers to identify and eliminate regulatory, contracting, and other programmatic

obstacles to the full participation of faith-based and community organizations in the provision of social services by their Departments. This proposed rule is part of HUD's efforts to fulfill its responsibilities under the Executive Order.

II. This Proposed Rule

A. Purpose of Proposed Rule

Consistent with the President's initiative, this proposed rule would revise HUD's regulations to remove unwarranted barriers to the equal participation of faith-based organizations in HUD's programs. The objective of this proposed rule is to ensure that HUD programs are open to all qualified organizations, regardless of their religious character, and to establish clearly the proper uses to which funds may be put, and the conditions for receipt of funding.

B. HUD Program Regulations Amended by Proposed Rule

The proposed rule would amend the regulations for the following HUD programs:

1. HOME Investment Partnerships (24 CFR part 92);
2. Community Development Block Grants (CDBG) (24 CFR part 570);
3. Hope for Homeownership of Single Family Homes (HOPE 3) (24 CFR part 572);
4. Housing Opportunities for Persons with AIDS (HOPWA) (24 CFR part 574);
5. Emergency Shelter Grants (ESG) (24 CFR part 576);
6. Shelter Plus Care (24 CFR part 582);
7. Supportive Housing (24 CFR part 583); and
8. Youthbuild (24 CFR part 585).

C. Proposed Regulatory Amendments

The proposed rule would make the following specific amendments to HUD's regulations for the programs listed above.

1. Participation by Faith-Based Organizations in HUD Programs

The proposed rule would make clear that organizations are eligible to participate in HUD programs without regard to their religious character or affiliation, and organizations may not be excluded from the competition for HUD funds simply because they are religious. Specifically, religious organizations are eligible to compete for funding on the same basis, and under the same eligibility requirements, as all other nonprofit organizations. The federal government, as well as state and local governments administering funds under

HUD programs, are prohibited from discriminating against organizations on the basis of religion or their religious character.

2. Faith-Based Activities

The proposed rule would describe the requirements applicable to all recipient organizations regarding the use of HUD funds for faith-based activities. Specifically, a participating organization may not use direct HUD funds to support inherently religious activities, such as worship, religious instruction, or proselytization. If the organization engages in such activities, the activities must be offered separately, in time or location, from the programs or services funded with HUD assistance, and participation must be voluntary for the beneficiaries of the HUD-funded programs or services. This requirement ensures that HUD funds provided directly to religious organizations are not used to support inherently religious activities. Thus, HUD funds provided directly to a participating organization may not be used, for example, to conduct prayer meetings, studies of sacred texts, or any other activity that is inherently religious.

This restriction does not mean that an organization that receives HUD funds cannot engage in inherently religious activities. It simply means such an organization cannot fund these activities with direct HUD funds. Thus, faith-based organizations that receive HUD funds must take steps to separate, in time or location, their inherently religious activities from the direct HUD-funded services that they offer.

These restrictions on inherently religious activities do not apply where HUD funds are provided to religious organizations as a result of a genuine and independent private choice of a beneficiary, provided the religious organizations otherwise satisfy the secular requirements of the program. A religious organization may receive such funds as the result of a beneficiary's genuine and independent choice if, for example, a beneficiary redeems a voucher, coupon, certificate, or similar funding mechanism that was provided to that individual using HUD funds under a program that is designed to give that individual a choice among providers.

3. Independence of Faith-Based Organizations

The proposed rule clarifies that a religious organization that participates in HUD programs will retain its independence and may continue to carry out its mission, including the definition, practice, and expression of

its religious beliefs, provided that it does not use HUD funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations may use space in their facilities to provide HUD-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, a HUD-funded religious organization may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

4. Nondiscrimination in Providing Assistance

The proposed rule clarifies that an organization that participates in a HUD program shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief. Accordingly, religious organizations, in providing services funded in whole or in part by HUD, may not discriminate against current or prospective program beneficiaries on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to actively participate in a religious practice.

5. Structures Used for Religious Activities

The proposed rule would also clarify that HUD funds may not be used for the acquisition, construction or rehabilitation of structures to the extent that those structures are used for inherently religious activities, such as worship, religious instruction, or prayer. HUD funds may be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under the specific HUD program. Where a structure is used for both eligible and inherently religious activities, HUD funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities.

6. Assurance Requirements

The proposed rule would remove those provisions of HUD's regulations that require only HUD-funded religious organizations to provide assurances that they will conduct eligible program activities in a manner that is "free from religious influences." HUD imposes no comparable assurance requirements in any other context, and HUD believes it is unfair to require religious

organizations alone to provide additional assurances, above and beyond those any other organization is required to provide, that they will comply with HUD requirements. All organizations that participate in HUD programs, including religious ones, must carry out eligible activities in accordance with all program requirements and other applicable requirements governing the conduct of HUD-funded activities, including those prohibiting the use of direct HUD funds to engage in inherently religious activities. In addition, to the extent that provisions of HUD's regulations disqualify religious organizations from participating in HUD's programs merely because they are motivated or influenced by religious faith to provide social services, the proposed rule removes that restriction, which is inconsistent with governing law.

7. Inapplicability of Executive Order 11246

The proposed rule would also amend the CDBG regulations to provide that Executive Order 11246, regarding equal employment opportunity, and the implementing regulations issued by the Department of Labor at 41 CFR part 60 do not apply to CDBG grantees. By its own terms, the Executive Order applies to government contractors and subcontractors, not grantees.

III. Findings and Certifications

Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, *Regulatory Planning and Review*. OMB determined that this rule is a "significant regulatory action" as defined in section 3(f) of the Order (although not an economically significant regulatory action under the Order). Any changes made to the rule as a result of that review are identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC 20410-0500.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This proposed rule does not impose any federal mandates on any state, local, or tribal governments or the private sector within the meaning of Unfunded Mandates Reform Act of 1995.

Executive Order 13132, Federalism

Executive Order 13132, Federalism, requires that federal agencies consult with state and local governments with state and local government officials in the development of regulatory policies with federalism implications. Consistent with Executive Order 13132, we specifically solicit comment from state and local government officials on this proposed rule.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection between the hours of 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) has reviewed and approved this proposed rule and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. The proposed rule would not impose any new costs, or modify existing costs, applicable to HUD grantees. Rather, the purpose of the proposed rule is to remove regulatory prohibitions that currently restrict the equal participation of faith-based organizations (large and small) in HUD's programs. Notwithstanding HUD's determination that this rule will not have a significant economic effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance Numbers for the programs affected by this rule are 14.218, 14.219, 14.225, 14.227, 14.228, 14.231, 14.235, 14.237, 14.238, 14.239, 14.241, 14.243, 14.246, 14.248, 14.512, 14.514, and 14.515.

List of Subjects*24 CFR Part 92*

Administrative practice and procedure, Grant programs—housing

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

24 CFR Part 570

Administrative practice and procedure, American Samoa, Community development block grants, Grant programs—education, Grant programs—housing and community development, Guam, Indians, Lead poisoning, Loan programs—housing and community development, Low and moderate income housing, New communities, Northern Mariana Islands, Pacific Islands Trust Territory, Pockets of poverty, Puerto Rico, Reporting and recordkeeping requirements, Small cities, Student aid, Virgin Islands.

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.

24 CFR Part 574

AIDS/HIV, Community facilities, Disabled, Grant programs—health programs, Grant programs—housing and community development, Grant programs—social programs, Homeless, Housing, Low and moderate income housing, Nonprofit organizations, Rent subsidies, Reporting and recordkeeping requirements, Technical assistance.

24 CFR Part 576

Community facilities, Emergency shelter grants, Grant programs—housing and community development, Grant programs—social programs, Homeless, Reporting and recordkeeping requirements.

24 CFR Part 582

Homeless, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 583

Homeless, Rent subsidies, Reporting and recordkeeping requirements.

CFR Part 585

Grant programs—housing and community development, Homeless, Low and very low-income families, Reporting and recordkeeping requirements, Homeless, Housing, Low and moderate income housing, Nonprofit organizations, Rent subsidies, Reporting and recordkeeping requirements, Technical assistance.

For the reasons stated in the preamble, HUD proposes to amend title 24 of the Code of Federal Regulations to read as follows:

PART 92—HOME INVESTMENT PARTNERSHIPS PROGRAM

1. The authority citation for 24 CFR part 92 continues to read as follows:

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

2. Revise § 92.257 to read as follows:

§ 92.257 Faith-based activities.

(a) Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the HOME program. Neither the federal government nor a state or local government receiving funds under HOME programs shall discriminate against an organization on the basis of the organization's religious character or affiliation.

(b) Organizations that are directly funded under the HOME program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded under this part. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part, and participation must be voluntary for the HUD-funded programs or services.

(c) A religious organization that participates in the HOME program will retain its independence from federal, state, or local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct HOME funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations may use space in their facilities, without removing religious art, icons, scriptures, or other religious symbols. In addition, a HOME-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

(d) An organization that participates in the HOME program shall not, in providing housing or housing assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

(e) HOME funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities. HOME funds may be used for the acquisition, construction or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under this part. Where a structure is used for both eligible and inherently religious activities, HOME funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities.

3. In § 92.504, remove paragraph (c)(3)(x) and redesignate paragraph (c)(3)(xi) as paragraph (c)(3)(x).

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

4. The authority citation for 24 CFR part 570 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 5301–5320.

5. Revise § 570.200(j) to read as follows:

§ 570.200 General policies.

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(j) Faith-based activities. (1)

Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the CDBG program. Neither the federal government nor a state or local government receiving funds under CDBG programs shall discriminate against an organization on the basis of the organization's religious character or affiliation.

(2) Organizations that are directly funded under the CDBG program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded under this part. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part, and participation must be voluntary for the beneficiaries of the HUD-funded programs or services.

(3) A religious organization that participates in the CDBG program will retain its independence from federal, state, or local governments and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct CDBG funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations may use space in their

facilities to provide CDBG-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, a CDBG-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

(4) An organization that participates in the CDBG program shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

(5) CDBG funds may not be used for the acquisition, construction or rehabilitation of structures to the extent that those structures are used for inherently religious activities. CDBG funds may be used for the acquisition, construction or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under this part. Where a structure is used for both eligible and inherently religious activities, CDBG funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities.

6. Amend § 570.503 as follows:

a. Remove paragraph (b)(6);
b. Redesignate paragraphs (b)(7) and (b)(8) as paragraphs (b)(6) and (b)(7), respectively; and

c. In newly designated paragraph (b)(7)(ii), remove all references to "paragraph (b)(8)(i) of this section" and in their place add "paragraph (b)(7)(i) of this section".

7. Revise § 570.607 to read as follows:

§ 570.607 Employment and contracting opportunities.

Grantees shall comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and implementing regulations at 24 CFR part 135.

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

8. The authority citation for 24 CFR part 572 continues to read as follows:

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

9. Revise § 572.405(d) to read as follows:

§ 572.405 Nondiscrimination and equal opportunity requirements.

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(d) Faith-based activities. (1)

Organizations that are religious or faith-

based are eligible, on the same basis as any other organization, to participate in the HOPE 3 program. Neither the federal government nor a state or local government receiving funds under HOPE 3 programs shall discriminate against an organization on the basis of the organization's religious character or affiliation.

(2) Organizations that are directly funded under the HOPE 3 program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded under this part. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part, and participation must be voluntary for the beneficiaries of the HUD-funded programs or services.

(3) A religious organization that participates in the HOPE 3 program will retain its independence from federal, state, or local governments and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct HOPE 3 funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations may use space in their facilities to provide HOPE 3-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, a HOPE 3-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

(4) An organization that participates in the HOPE 3 program shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

(5) HOPE 3 funds may not be used for the acquisition, construction or rehabilitation of structures to the extent that those structures are used for inherently religious activities. HOPE 3 funds may be used for the acquisition, construction or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under this part. Where a structure is used for both eligible and inherently religious activities, HOPE 3 funds may not exceed the cost of those portions of the acquisition,

construction, or rehabilitation that are attributable to eligible activities.

PART 574—HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

10. The authority citation for 24 CFR parts 574 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 12901–12912.

11. Revise § 574.300(c) to read as follows:

§ 574.300 Eligible activities.

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(c) *Faith-based activities.* (1) Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the HOPWA program. Neither the federal government nor a state or local government receiving funds under HOPWA programs shall discriminate against an organization on the basis of the organization's religious character or affiliation.

(2) Organizations that are directly funded under the HOPWA program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded under this part. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part, and participation must be voluntary for the beneficiaries of the HUD-funded programs or services.

(3) An organization that participates in the HOPWA program will retain its independence from federal, state, or local governments and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct HOPWA funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations may use space in their facilities to provide HOPWA-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, a HOPWA-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

(4) An organization that participates in the HOPWA program shall not, in providing program assistance, discriminate against a program

beneficiary or prospective program beneficiary on the basis of religion or religious belief.

(5) HOPWA funds may not be used for the acquisition, construction or rehabilitation of structures to the extent that those structures are used for inherently religious activities. HOPWA funds may be used for the acquisition, construction or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under this part. Where a structure is used for both eligible and inherently religious activities, HOPWA funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities.

PART 576—EMERGENCY SHELTER GRANTS PROGRAM: STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT

12. The authority citation for 24 CFR part 576 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 11376.

13. Revise § 576.23 to read as follows:

§ 576.23 Faith-based activities.

(a) Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the Emergency Shelter Grants program. Neither the federal government nor a state or local government receiving funds under Emergency Shelter Grants programs shall discriminate against an organization on the basis of the organization's religious character or affiliation.

(b) Organizations that are directly funded under the Emergency Shelter Grants program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization as part of the programs or services funded under this part. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part, and participation must be voluntary for the beneficiaries of the HUD-funded programs or services.

(c) A religious organization that participates in the Emergency Shelter Grants program will retain its independence from federal, state, or local governments and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct Emergency Shelter Grants funds to support any inherently religious activities, such as worship, religious instruction, or proselytization.

Among other things, faith-based organizations may use space in their facilities to provide Emergency Shelter Grants-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, an Emergency Shelter Grants-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

(d) An organization that participates in the Emergency Shelter Grants program shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

(e) Emergency shelter grants may not be used for the rehabilitation of structures to the extent that those structures are used for inherently religious activities. Emergency shelter grants may be used for the rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under this part. Where a structure is used for both eligible and inherently religious activities, emergency shelter grants may not exceed the cost of those portions of the rehabilitation that are attributable to eligible activities.

PART 582—SHELTER PLUS CARE

14. The authority citation for 24 CFR part 582 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 11403–11470b.

15. Revise § 582.115(c) to read as follows:

§ 582.115 Limitations on assistance.

* * * * *

(c) *Faith-based activities.* (1) Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the S+C program. Neither the federal government nor a state or local government receiving funds under S+C programs shall discriminate against an organization on the basis of the organization's religious character or affiliation.

(2) Organizations that are directly funded under the S+C program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization as part of the programs or services funded under this part. If an organization conducts such activities, the activities must be offered separately, in time or location, from the

programs or services funded under this part, and participation must be voluntary for the beneficiaries of the HUD-funded programs or services.

(3) A religious organization that participates in the S+C program will retain its independence from federal, state, or local governments and may continue to carry out its mission, including the definition, practice and expression of its religious beliefs, provided that it does not use direct S+C funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations may use space in their facilities to provide S+C-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, an S+C-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

(4) An organization that participates in the S+C program shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

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PART 583—SUPPORTIVE HOUSING PROGRAM

16. The authority citation for 24 CFR part 583 continues to read as follows:

Authority: 42 U.S.C. 11389 and 3535(d).

17. Revise § 583.150(b) to read as follows:

§ 583.150 Limitations on use of assistance.

* * * * *

(b) *Faith-based activities.* (1) Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the Supportive Housing Program. Neither the federal government nor a state or local government receiving funds under Supportive Housing programs shall discriminate against an organization on the basis of the organization's religious character or affiliation.

(2) Organizations that are directly funded under the Supportive Housing Program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization as part of the programs or services funded under this part. If an

organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part, and participation must be voluntary for the beneficiaries of the HUD-funded programs or services.

(3) A religious organization that participates in the Supportive Housing Program will retain its independence from federal, state, or local governments and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct Supportive Housing Program funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations may use space in their facilities to provide Supportive Housing Program-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, a Supportive Housing Program-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

(4) An organization that participates in the Supportive Housing Program shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

(5) Program funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities. Program funds may be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under this part. Where a structure is used for both eligible and inherently religious activities, program funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities.

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PART 585—YOUTHBUILD PROGRAM

18. The authority citation for 24 CFR part 585 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 8011.

19. Revise § 585.406 to read as follows:

§ 585.406 Faith-based activities.

(a) Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the Youthbuild program. Neither the federal government nor a state or local government receiving funds under Youthbuild programs shall discriminate against an organization on the basis of the organization's religious character or affiliation.

(b) Organizations that are directly funded under the Youthbuild program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded under this part. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part, and participation must be voluntary for the beneficiaries of the HUD-funded programs or services.

(c) A religious organization that participates in the Youthbuild Program will retain its independence from federal, state, or local governments and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct Youthbuild Program funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations may use space in their facilities to provide Youthbuild Program-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, a Youthbuild Program-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

(d) An organization that participates in the Youthbuild program shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

(e) Youthbuild funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities. Youthbuild funds may be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under this part. Where a structure is used for both eligible and inherently religious

activities, Youthbuild funds may not exceed the cost of those portions of the acquisition, construction, or

rehabilitation that are attributable to secular activities.

Dated: December 11, 2002.

Mel Martinez,

Secretary.

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