

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### 24 CFR Part 24

[Docket No. FR-4692-F-04]

RIN 2501-AC81

### Suspension, Debarment, Limited Denial of Participation

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

**ACTION:** Final rule.

**SUMMARY:** On November 26, 2003, HUD published a final rule adopting the Interagency Suspension and Debarment Committee's 2003 enactment of a Nonprocurement Common Rule for Suspensions and Debarments (NCR). HUD also published agency-specific requirements that, along with the NCR, would best serve HUD's programs. In HUD's agency-specific rule, HUD referenced a definition for the term ultimate beneficiaries, but failed to include the definition in the regulation. This rule corrects this omission by adding the definition of ultimate beneficiaries.

**DATES:** *Effective Date:* October 4, 2004.

**FOR FURTHER INFORMATION CONTACT:** Dane Narode, Assistant General Counsel, Office of Program Enforcement, Administrative Proceedings Division, Department of Housing and Urban Development, 1250 Maryland Avenue, Suite 200, Washington, DC 20024-0500; telephone (202) 708-2350 (this is not a toll-free number); e-mail: [Dane\\_M\\_Narode@HUD.gov](mailto:Dane_M_Narode@HUD.gov). Individuals with hearing or speech impairments may access the voice telephone number listed above by calling the Federal Information Relay Service during working hours at 800-877-8339.

**SUPPLEMENTARY INFORMATION:** On November 26, 2003 (68 FR 66592), HUD published a final rule adopting the Interagency Suspension and Debarment Committee's NCR. HUD also codified agency-specific requirements that, along with the NCR, would best serve HUD's programs. In the table of contents for Subpart I (entitled Definitions) of HUD's agency-specific rule, HUD included a reference for a definition of the term ultimate beneficiaries. The definition was to have been added at § 24.1017. The actual definition, however, was inadvertently omitted from HUD's agency-specific regulation. This final rule corrects this omission by adding the definition of the term, "ultimate beneficiaries."

The definition of the term "ultimate beneficiaries" added by this rule is identical to the definition of this term that was in effect prior to the effective date of the NCR and codified at § 24.105. This definition has been used consistently since the promulgation of the 1988 NCR (53 FR 19182 and 19204).

### Findings and Certifications

#### *Justification for Direct Final Rulemaking*

In general, the Department publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking, 24 CFR part 10. However, part 10 does provide for exceptions from that general rule where the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest" (24 CFR 10.1). In this case, public comment is unnecessary because HUD is adding a definition of the term "ultimate beneficiaries" that was inadvertently omitted from the publication of the NCR. In addition, HUD is making no change to the definition of this term from that in effect prior to the effective date of the NCR. Therefore, there would be no purpose served by accepting public comments on this rule.

#### *Regulatory Flexibility Act*

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this rule and, in so doing, certified that this rule would not have a significant economic impact on a substantial number of small entities. This rule imposes no new obligation of any kind but simply adds a definition for the term "ultimate beneficiaries" without changing what was in effect prior to the effective date of the NCR.

#### *Environmental Impact*

In accordance with 24 CFR 50.19(c)(6), this rule sets forth administrative requirements which do not constitute a development decision that affects the physical condition of specific project areas or building sites, and therefore is categorically excluded from the requirements of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and related federal laws and authorities.

#### *Executive Order 13132, Federalism*

Executive Order 13132 (entitled "Federalism") prohibits, to the extent

practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on state and local governments and is not required by statute, or preempts state law, unless the relevant requirements of section 6 of the order are met. This final rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the order.

#### *Unfunded Mandates Reform Act*

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

#### List of Subjects in 24 CFR Part 24

Administrative practice and procedure, Government contracts, Grant programs, Loan programs, Technical assistance, Reporting and recordkeeping requirements.

■ For the reasons stated in the preamble, HUD amends 24 CFR part 24 as follows:

### PART 24—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

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

**Authority:** 41 U.S.C. 701 *et seq.*; 42 U.S.C. 3535(d); Sec. 2455, Pub. L. 103-355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 12549 (3 CFR, 1986 Comp., p. 189); E.O. 12689 (3 CFR, 1989 Comp., p. 235).

■ 2. Section 24.1017 is added to read as follows:

#### § 24.1017 Ultimate beneficiaries.

*Ultimate beneficiaries* of HUD programs include, but are not limited to, subsidized tenants and subsidized mortgagors, such as those assisted under Section 8 Housing Assistance Payment contracts, by Section 236 Rental Assistance, or by Rent Supplement payments.

Dated: August 24, 2004.

**Alphonso Jackson,**  
Secretary.

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