

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Statement of Regulatory Priorities

The Regulatory Plan for the Department of Housing and Urban Development (HUD) for Fiscal Year (FY) 2010 highlights the most significant regulations and policy initiatives that HUD seeks to complete during the upcoming fiscal year. As the federal agency that serves as the nation's housing agency, committed to addressing the housing needs of Americans, promoting economic and community development, and enforcing the nation's fair housing laws, HUD plays a significant role in the lives of families and in communities throughout America. The Department's program and initiatives help to provide decent, safe, and sanitary housing, and create suitable living environments for all Americans. HUD expands housing opportunities for Americans by enforcing fair housing laws that operate to eliminate housing discrimination. HUD also provides housing and other essential support to a wide range of individuals and families with special needs, including homeless individuals, the elderly, and persons with disabilities.

Secretary Donovan has directed that HUD must have a balanced, comprehensive national housing policy, one that supports and preserves sustainable homeownership, but also provides affordable rental housing, with a focus on preservation of developments that are integral to sustainability, such as those adjacent to significant transportation options, or with great access to jobs. Increasing the availability of affordable rental housing provides a means of addressing the increase in homelessness.

HUD's Regulatory Plan for FY2010 reflects one step in achieving this balanced, comprehensive national housing policy, and is based on major legislation recently enacted that supports such a policy.

Priority: Preserving and Expanding Affordable Rental Housing and Increasing Homeownership

The Housing and Economic Recovery Act of 2008 (HERA) establishes a Housing Trust Fund to be administered by HUD, for the purpose of providing grants to states to increase and preserve the supply of rental housing for extremely low- and very low-income families, including homeless families, and to increase homeownership for extremely low- and very low-income

families. Although the Housing Trust Fund supports both increases in rental housing and homeownership, the primary focus of the Housing Trust Fund is rental housing for extremely low- and very low-income households, since HERA provides that no more than 10 percent of each formula allocation may be expended on homeownership.

HERA charges HUD to establish, through regulation, the formula for distribution of Housing Trust Fund grants to states. HERA specifies that only certain factors are to be part of the formula, and it designates certain factors as priority factors. In addition to the charge to establish a formula by rule, the statute also directs HUD to issue regulations to carry out the statutory requirements applicable to use of Housing Trust Fund grants. Eligible trust fund activities include production, preservation, and rehabilitation of housing for rental housing and homeownership through new construction, acquisition, and acquisition and rehabilitation.

Regulatory Action: Housing Trust Fund – Allocation Formula and Program Requirements

HUD will issue two rules, as provided by statute. The first rule will address the formula by which Housing Trust Fund grant will be allocated to the states. The second rule will provide for implementation of the program requirements. Both rules will provide the opportunity for public comment. The Housing Trust Fund represents a bipartisan enactment of possibly the most significant new federal housing production program since the creation of the HOME Investment Partnerships program in 1990. Capitalization of this fund through appropriations and regulatory implementation will constitute a major step toward increasing the supply of affordable housing.

Priority: Expanding Affordable Housing by Building Upon Success

The HOME Investment Partnerships (HOME) Program, authorized by the Cranston-Gonzales National Affordable Housing Act, is the largest federal block grant to state and local governments designed exclusively to create affordable housing for low-income households. Each year, the HOME program allocates approximately \$2 billion among the states and hundreds of localities nationwide. The program was designed to reinforce several important values and principles of community development, including empowering people and communities to design and

implement strategies tailored to their own needs and priorities; emphasizing the importance of consolidated planning, which expands and strengthens partnerships among all levels of government and the private sector in the development of affordable housing; and, through matching funds, mobilizing community resources in support of affordable housing. HOME is a highly successful program through which nearly 912,000 affordable housing units for low- and very low-income households have been provided since 1992.

Regulatory Action: HOME Investment Partnerships – Improving Performance and Accountability; Updating Property Standards and Instituting Energy Efficiency Standards

The Department will publish significant proposed amendments to the HOME Program regulations. These regulations were last revised in 1996. This proposed rule would establish new performance standards for the use of HOME program funds, including establishing expeditious but responsible use of funds to provide new affordable housing opportunities, and would ensure that future HOME units are energy efficient and incorporate green building techniques.

Priority: Housing the Homelessness

The Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act) was enacted on May 20, 2009. The HEARTH Act reauthorizes the homeless assistance programs administered by HUD under the McKinney-Vento Homeless Assistance Act, and consolidates these programs into a single grant program. The consolidated program, which consists of an Emergency Solutions Grant program, a Continuum of Care program, and a Rural Housing Stability program, is designed to ensure that the range of needs of homeless persons continue to be addressed while providing for consolidated application and administration to ease administrative burden and improve coordination among providers and, consequently, increase the effectiveness of responding to the needs of homeless persons.

In addition to consolidating HUD's Supportive Housing Program, Shelter Plus Care, and the Moderate Rehabilitation/Single Room Occupancy Program into a single Continuum of Care program, key features of the HEARTH Act include: revising HUD's definition of homelessness by including people at imminent risk of losing their

housing, as well as families or youth who live in precarious situations and are unlikely to become stable; establishing the Rural Housing Stability Assistance Program, which provides rural communities with greater flexibility in using homeless assistance funds to address the needs of homeless people or those in the worst housing situations in their communities; authorizing that up to 20 percent of funds may be used to prevent homelessness or rapidly re-house people who become homeless through the new Emergency Solution Grants; and codifying HUD's Continuum of Care process, established administratively by HUD in 1995.

Regulatory Action: Homeless Emergency Assistance and Rapid Transition to Housing Program; Consolidation of HUD Homeless Assistance Programs

The HEARTH Act directs HUD to implement this program through rulemaking. HUD will issue two rules to implement this new program. The definition of homelessness, which is key to ensuring that the goals and objectives of the new statute are met, will be issued first as a separate rule for comment. HUD will follow this single issue rule with a larger rule that provides for HUD's implementation of the program requirements. The funding for this new program and HUD's implementation through rulemaking, as directed by statute, will provide communities with new resources and better tools to prevent and end homelessness.

Aggregate Costs and Benefits

Executive Order 12866, as amended, requires the agency to provide its best estimate of the combined aggregate costs and benefits of all regulations included in the agency's Regulatory Plan that will be made effective in calendar year 2010. HUD expects that the neither the total economic costs nor the total efficiency gains will exceed \$100 million. HUD anticipates that, over the next twelve months, only one rule included in its Regulatory Plan, the Housing Trust Fund will have an economically significant impact. HUD's choice of an allocation formula has an impact on the distribution of over \$100 million of transfers. The two additional rules on the Regulatory Plan are not anticipated to have an economically significant impact. HUD believes that the HOME Investment Partnerships will impose only minor costs in the form performance standards and economically insignificant benefits in the form of energy savings. The

Homeless Emergency Assistance and Rapid Transition to Housing Program will lead to greater efficiency in the administration of housing assistance programs, but these savings are not expected to be economically significant.

The Priority Regulations That Comprise HUD's FY 2010 Regulatory Plan

A more detailed description of the priority regulations that comprise HUD's FY 2010 Regulatory Plan follows.

HUD—Office of the Secretary (HUDSEC)

PROPOSED RULE STAGE

86. HOME INVESTMENT PARTNERSHIPS—IMPROVING PERFORMANCE AND ACCOUNTABILITY; UPDATING PROPERTY STANDARDS AND INSTITUTING ENERGY EFFICIENCY STANDARDS (FR—5234)

Priority:

Other Significant

Legal Authority:

42 USC 12701 to 12839; 42 USC 3535(d)

CFR Citation:

24 CFR 92

Legal Deadline:

None

Abstract:

The Cranston-Gonzalez National Affordable Housing Act of 1990 authorized the HOME Investment Partnerships (HOME) Program, an affordable housing block grant under which funds are allocated to states and units of local government by formula. The program has been funded each year since 1992. The program operated under a series of interim rules until 1996, when a final rule was promulgated. This rule would amend HOME regulations to implement performance standards and require more timely housing production. It would also update the property standards to incorporate green building techniques and energy-efficiency standards for HOME-assisted units.

Statement of Need:

The Cranston-Gonzales National Affordable Housing Act notes that there is critical need to increase the supply of decent, safe, and sanitary housing for

all Americans, particularly among low-income families. HOME funds may be used for a variety of housing activities, including rental assistance, housing rehabilitation, assistance to homebuyers, new construction, and to support states and units of local government implement local housing strategies designed to increase homeownership and affordable housing opportunities. The HOME program is now in its 18th year of funding. This rulemaking is needed to move the program forward by providing greater clarity, establishing and improving performance standards, and providing participating jurisdictions with the tools they need to address troubled projects. The rule would update builder standards for HOME-assisted facilities to incorporate energy efficiency and green building standards.

Summary of Legal Basis:

Title II of the Cranston-Gonzalez National Affordable Housing Act authorizes funding to participating jurisdictions for various housing purposes, including strengthening public-private partnerships to increase the supply of affordable housing, including homeownership. The goals of the program include expanding the supply of decent, safe, sanitary, and affordable housing, primarily for very low-income and low-income Americans and to strengthen the abilities of states and units of local government to design and implement local strategies for achieving an adequate supply of decent, safe, sanitary, and affordable housing.

Alternatives:

These changes can be implemented only by regulatory amendment. Other options considered included maintaining the status quo. However, after eleven years of experience under the currently codified rule, HUD has identified a need to increase accountability with respect to performance. Moreover, to ensure that these performance standards are effective, the program will need clear regulatory requirements to base an action against a grantee. The rule would reflect these policy goals.

Anticipated Cost and Benefits:

No increased costs are anticipated as a result of the changes related to performance standards. There may be some incremental costs associated with the imposition of green building technologies and energy-efficiency measures. However, those costs will be offset by lower operating costs for

energy-efficient housing and increased affordability for low- and very low-income families.

Risks:

This rule poses no risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	02/00/10	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Agency Contact:

Virginia Sardone
Deputy Director, Office of Community Planning and Development, Office of Affordable Housing Programs
Department of Housing and Urban Development
HUD, 451 7th St SW
Washington, DC 20410
Phone: 202 708-2470

RIN: 2501-AC94

HUD—Office of Community Planning and Development (CPD)

PROPOSED RULE STAGE

87. HOUSING TRUST FUND PROGRAM—ALLOCATION FORMULA AND PROGRAM REQUIREMENTS (FR-5246)

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

12 USC 4568; 42 USC 3535(d)

CFR Citation:

24 CFR 93

Legal Deadline:

Final, Statutory, June 30, 2009, Regulations describing Formula Distribution; however, funds are not available to or appropriated for the Housing Trust Fund.

Abstract:

The Housing and Economic Recovery Act of 2008 (HERA) establishes a Housing Trust Fund. Section 1338 of

HERA directs HUD to establish and manage a Housing Trust Fund, which is to be funded with amounts allocated by the government-sponsored enterprises or by any amounts that may be appropriated, transferred, or credited to the Housing Trust Fund under any other provision of law. The purpose of the Housing Trust Fund is to provide grants to states for use to: (1) increase and preserve the supply of rental housing for extremely low- and very low-income families, including homeless families; and (2) increase homeownership for extremely low- and very low-income families. The primary focus of the Housing Trust Fund is rental housing for extremely low- and very low-income households. HERA provides that no more than 10 percent of each formula allocation may be expended on homeownership.

HERA charges HUD to establish, by July 2009, and, through regulation, the formula for the distribution of the Housing Trust Fund grants to states, and to follow that rule with one that implements the Housing Trust Fund program requirements.

Statement of Need:

In enacting Housing Trust Fund legislation, Congress determined that the national housing policy of the past several years was overly focused on homeownership and did not provide adequate attention to the need of renters and the need for affordable rental housing. The Housing Trust Fund legislation, as signed into law, provides increased resources to be directed to the preservation and expansion of affordable rental housing.

Summary of Legal Basis:

The rules implementing the Housing Trust Fund formula allocation and establishing the program requirements are mandated by HERA.

Alternatives:

HERA requires implementation of both the formula and the program requirements by regulation. Accordingly, this rule fulfills a statutory mandate to proceed with rulemaking to codify the policies and procedures governing the HTF. The prescriptive statutory language of HERA limits the policy options considered by HUD. Areas in which the statute provides some discretion and the Department is considering alternatives include: (1) the contents of the statutorily mandated allocation plans to be submitted by states and state designated entities; (2) the eligible activities that may be carried out with

HTF funds; and (3) appropriate benchmarks and performance goals for the use of HTF funds.

Anticipated Cost and Benefits:

The benefit of this program is the increase in affordable rental housing, which will present savings to low-income and very low-income individuals with respect to amount of income they spend on housing, and contribution to the prevention of homelessness, which has increased as the unemployment rate has risen. The economic impact of the Housing Trust Fund consists of a transfer from the taxpayer, through State governments, to extremely low- and very low-income families. By expanding and preserving the supply of housing and lowering financial barriers to homeownership, the Housing Trust Fund will reduce the housing costs of extremely low- and very low-income families, and thus raise the consumer surplus of the program's beneficiaries.

Risks:

This rule poses no risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	01/00/10	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Local, State, Tribal

Agency Contact:

Marcia Sigal
Director, Program Policy Division, Office of Affordable Housing Programs
Department of Housing and Urban Development
Office of Community Planning and Development
HUD, 451 7th St. Street
Washington, DC 20410
Phone: 202 708-2470
Fax: 202 708-1744

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HUD—CPD**88. • HOMELESS EMERGENCY ASSISTANCE AND RAPID TRANSITION TO HOUSING PROGRAM; CONSOLIDATION OF HUD HOMELESS ASSISTANCE PROGRAMS (FR-5333)****Priority:**

Other Significant

Legal Authority:

42 USC 11371 et seq.; 42 USC 3535(d)

CFR Citation:

24 CFR 577 to 579

Legal Deadline:

Final, Statutory, May 20, 2010, Regulations governing operation of programs created or affected by HEARTH Act of 2009.

Abstract:

The Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act) reauthorizes the homeless assistance programs administered by HUD under the McKinney-Vento Homeless Assistance Act, and consolidates these programs into a single grant program. The consolidated program, which consists of an Emergency Solutions Grant Program, a Continuum of Care Program, and a Rural Housing Stability Program, is designed to ensure that the range of needs of homeless persons continue to be addressed, but provides for consolidated grant application and administration to ease administrative burden and improve coordination among providers and, consequently, increase the effectiveness of responses to the needs of homeless persons.

HUD will issue two rules to implement this new program. One rule will solely address the definitions of “homeless,” “homeless individual,” and “homeless person,” the meaning of which are essential to the coverage provided by this program. The second rule will establish the regulatory framework to implement the program.

Statement of Need:

These rules are needed to fully implement the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act). The HEARTH Act requires that HUD issue implementing regulations governing the operations of the programs it creates or modifies by no later than twelve months after the date of enactment.

Summary of Legal Basis:

The rules implementing the consolidated McKinney-Vento Homeless Assistance programs are mandated by the HEARTH Act.

Alternatives:

The HEARTH Act requires implementation of the program by rulemaking. Accordingly, this rule will assist in meeting the statutory mandate to proceed with rulemaking to codify the policies and procedures governing the HEARTH Act. The prescriptive statutory language of the HEARTH Act limits policy options available; however, HUD is considering options where the HEARTH Act provides discretion including: (1) determining the appropriate remedial action to ensure the fair distribution of assistance for geographic areas that do not meet the requirements for funding or where there is no collaborative applicant for

a geographic area, and (2) establishing the dates by which the recipient or project sponsor must expend grants for a homeless assistance.

Anticipated Cost and Benefits:

The consolidated homeless assistance program authorized by the HEARTH Act is designed to more rapidly respond to the needs of the homeless and, therefore, prevent homelessness and, initially, prevent the rise in the number of homeless persons.

Risks:

This rule poses no risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	01/00/10	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Agency Contact:

Ann Marie Oliva
Director, Office of Special Needs Assistance Program
Department of Housing and Urban Development
Office of Community Planning and Development
HUD, 451 7th St. Street
Washington, DC 20410
Phone: 202 402-4497

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