

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT****24 CFR Part 570**

[Docket No. FR-4919-F-02]

RIN 2506-AC17

**Community Development Block Grant Program; Small Cities and Insular Areas Programs****AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.**ACTION:** Final rule.

**SUMMARY:** This rule makes final a June 10, 2004, interim rule that established regulations to implement a statutory change moving Community Development Block Grant (CDBG) program assistance for insular areas from section 107 (Special Purpose Grants) to section 106 (Allocation and Distribution of Funds) of the Housing and Community Development Act of 1974. The June 10, 2004, interim rule solicited public comments. No comments were received by HUD on the interim rule. This final rule adopts the interim rule, therefore, without change.

**DATES: Effective Date:** March 24, 2005.**FOR FURTHER INFORMATION CONTACT:**

Stephen Rhodeside, Community Planning and Development Specialist, State and Small Cities Division, Office of Block Grant Assistance, Office of Community Planning and Development, Room 7184, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-7000, telephone (202) 708-1322 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 800-877-8339.

**SUPPLEMENTARY INFORMATION:** On June 10, 2004, HUD published an interim rule at 69 FR 32774 that amended part 570 regulations for the CDBG program to establish the policies and procedures governing the Insular Areas CDBG program consistent with section 106 of the Housing and Community Development Act of 1974 (HCD Act) (42 U.S.C. 5301 *et seq.*). The CDBG program, authorized under the HCD Act has provided discretionary assistance as special purpose grants to qualifying insular area jurisdictions since Fiscal Year (FY) 1982. Through the CDBG program, HUD allocates funds by formula among eligible state and local governments, and also makes funds available to insular areas, for activities which principally benefit low- and moderate-income persons, aid in the

elimination of slums or blighting conditions, or meet other community development needs having a particular urgency. HUD's regulations for the portions of the CDBG program administered by HUD's Office of Community Planning and Development are located in 24 CFR part 570.

Title V of Public Law 108-186 (117 Stat. 2685, approved December 16, 2003) (title V) amended title I of the HCD Act, moving the insular areas funding authorization from section 107(a) (42 U.S.C. 5307(a)) to section 106(a) (42 U.S.C. 5306(a)). This revision identified a specific portion of the CDBG allocation for insular areas that is separate from the distribution for special purpose grants as well as from the entitlement and state formula distribution. The change provides the insular areas of Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa with greater assurance of annual CDBG program funding.

With respect to the allocation of funds, title V establishes total ongoing annual insular areas funding at a level of \$7,000,000, consistent with the level of funding received by insular areas while under the special purpose grant section of the HCD Act. Title V provides for the distribution of amounts to insular areas on the basis of the ratio of the population of each insular area to the population of all insular areas, which is also consistent with the past basis for distribution under the special purpose grant section. Title V also provides HUD with the authority to include other statistical criteria in the distribution formula as additional data become available from the Bureau of the Census, if such distribution criteria are contained in a regulation promulgated by HUD after notice and public comment. Finally, the greater assurance of continued funding provided by inclusion under section 106 of the HCD Act and the placement of the Insular Areas CDBG regulations in subpart F provide insular areas with the opportunity to apply for loan guarantees as described in section 108 of the HCD Act and subpart M of 24 CFR 570.

This final rule follows publication of the June 10, 2004, interim rule. As noted above, HUD received no comment on the interim rule. Accordingly, the final rule adopts the interim rule without changes.

**Findings and Certifications****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 the private sector. This final rule does not impose any federal mandates on any State, local, or tribal government or the private sector within the meaning of UMRA.

**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 executive order are met. This 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 executive order.

**Impact on Small Entities**

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule does not impose any new or modify existing regulatory requirements. This rule only codifies in HUD's regulations statutory policies and procedures that transfer the Insular Areas program from eligibility under section 107 of the HCD Act to eligibility under section 106 of the HCD Act and makes existing sections of 24 CFR parts 91 and 570 that apply to section 106 nonentitlement grants also applicable to the Insular Areas program. Accordingly, the undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities.

**Environmental Impact**

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C) at the interim rule stage of this final rule, and continues to apply. The FONSI is available for public inspection between the hours of 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban

Development, 451 Seventh Street, SW., Washington, DC 20410-0500.

*Catalog of Federal Domestic Assistance*

The Catalog of Federal Domestic Assistance number for the CDBG Small Cities Program is 14.219.

**List of Subjects in 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.

■ Accordingly, the interim rule amending 24 CFR part 570 that was published at 69 FR 32774 on June 10, 2004, is adopted as a final rule without change.

Dated: February 10, 2005.

**Nelson R. Bregón,**

*General Deputy Assistant Secretary for Community Planning and Development.*

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