

exception, HUD will consider the cumulative effect of the following factors, where applicable:

(1) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the local homeownership program that would otherwise not be available;

(2) Whether an opportunity was provided for open competitive bidding or negotiation;

(3) Whether the person affected is a member of a group or class intended to be the beneficiaries of the activity and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(4) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decisionmaking process, with respect to the specific activity in question;

(5) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (b) of this section;

(6) Whether undue hardship will result either to the applicant, recipient, or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(7) Any other relevant considerations.

§ 572.420 Miscellaneous requirements.

(a) *Application of OMB Circulars.* (1) The policies, guidelines, and requirements of OMB Circular Nos. A-87 (Cost Principles Applicable to Grants, Contracts and Other Agreements with State and Local Governments) and 24 CFR part 85 (Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments) apply to the award, acceptance, and use of assistance under this part by applicable entities, and to the remedies for non-compliance, except where inconsistent with the provisions of NAHA, other Federal statutes, or this part. Part 84 of this title (Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations) and OMB Circular Nos. A-122 (Cost Principles Applicable to Grants, Contract and Other Agreements with Nonprofit Institutions)

and, as applicable, A-21 (Cost Principles for Educational Institutions) apply to the acceptance and use of assistance under this part by covered organizations, except where inconsistent with the provisions of Federal statutes or this part. Recipients are also subject to the audit requirements of OMB Circular A-128 (Audits of State and Local Governments) implemented at 24 CFR part 44, and OMB Circular A-133 (Audits of Institutions of Higher Learning and Other Nonprofit Institutions), implemented at 24 CFR part 45, as applicable.

(2) Copies of OMB Circulars may be obtained from E.O.P. Publications, room 2200, New Executive Office Building, Washington, DC 20503, telephone (202) 395-7332 (this is not a toll-free number). There is a limit of two free copies.

(b) *Requirements in 24 CFR part 5.* The Disclosure requirements; provisions on Debarred, suspended or ineligible contractors; and Drug-Free Workplace requirements, as identified in § 5.105 (b), (c), and (d) of this title, apply to this program.

(c)-(d) [Reserved]

(e) *Labor standards.* If other Federal programs are used in connection with the HOPE 3 homeownership program, labor standards requirements apply to the extent required by such other Federal programs.

(f) *Flood insurance.* Pursuant to the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001-4128), the recipient may not provide financial assistance for acquisition or rehabilitation of properties located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:

(1) The community in which the area is situated is participating in the National Flood Insurance program (see 44 CFR parts 59 through 79), or less than one year has passed since FEMA notification regarding such hazards; and

(2) Flood insurance is obtained as a condition of the acquisition or rehabilitation of the property.

(g) *Coastal Barrier Resources Act.* Pursuant to the Coastal Barrier Resources Act (16 U.S.C. 3601), HUD will not approve use of properties in the Coastal Barrier Resources System.

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(h) *Lead-based paint activities.* The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, J, K and R of this title apply to activities under these programs.

[58 FR 36526, July 7, 1993, as amended at 59 FR 2738, Jan. 19, 1994; 61 FR 48798, Sept. 16, 1996; 62 FR 34145, June 24, 1997; 64 FR 50226, Sept. 15, 1999]

§ 572.425 Recordkeeping and reports; audit of recipients.

(a) *General records.* Each recipient must keep records that will facilitate an effective audit to determine compliance with program requirements and that fully disclose:

(1) The amount and disposition by the recipient of the planning and implementation grants received under this part, including sufficient records that document the reasonableness and necessity of each expenditure;

(2) The amount and disposition of proceeds from financing obtained in connection with the program, sales to eligible families, and any funds recaptured upon sale by the homeowner;

(3) The total cost of the homeownership program;

(4) The amount and nature of any other assistance, including cash, property, services, or other items contributed as a condition of receiving an implementation grant;

(5) The cost or other value of all in-kind contributions towards the match required by § 572.220; and

(6) Any other proceeds received for, or otherwise used in connection with, the homeownership program under this part.

(b) *Family size and income; racial, ethnic, and gender data.* The recipient must maintain records on the family size and income, and racial, ethnic, and gender characteristics of families who apply for homeownership and families who become homeowners.

(c) *Selection procedures.* The recipient must maintain a copy of its procedures for identifying and selecting eligible families in accordance with § 572.110, and records documenting the eligi-

bility of each family selected for homeownership.

(d) *Rehabilitation standards.* The recipient must maintain written rehabilitation standards required by § 572.100(d)(5).

(e) *Cooperative and condominium agreements.* The recipient must maintain a copy of any condominium and cooperative association agreements for properties under a homeownership program approved under this part.

(f) *Amounts available for reuse.* The recipient must keep and make available to HUD all records necessary to calculate accurately payments due to HUD under § 572.135(b) and (c).

(g) *Access by HUD and the Comptroller General.* For purposes of audit, examination, monitoring, and evaluation, each recipient must give HUD (including any duly authorized representatives and the Inspector General) and the Comptroller General of the United States (and any duly authorized representatives) access to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this part, including all records required to be kept under this section.

(h) *Reports.* The recipient must submit reports required by HUD.

(Approved by the Office of Management and Budget, with respect to implementation grants, under control number 2506-0128)

PART 573—LOAN GUARANTEE RECOVERY FUND

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- 573.10 Fees for guaranteed loans.
- 573.11 Record access and recordkeeping.

AUTHORITY: Pub. L. 104-155, 110 Stat. 1392, 18 U.S.C. 241 note; 42 U.S.C. 3535(d).

SOURCE: 61 FR 47405, Sept. 6, 1996, unless otherwise noted.