

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT****24 CFR Parts 92, 570, 572, 574, 576, 582, 583, and 585****[Docket No. FR-4782-F-02]****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:** Final rule.

**SUMMARY:** This final rule revises HUD regulations to remove barriers to the participation of faith-based organizations in certain HUD programs. In general, no group of applicants competing for HUD funds should be subject, as a matter of HUD's discretion, to greater or fewer requirements than other organizations solely because of their religious character or affiliation, or absence of religious character or affiliation. Applicants for HUD funds and those applicants selected to receive HUD funding should generally be subject to the same requirements. The purpose of the revisions made by this rule is to ensure that faith-based organizations are able to compete on an equal footing with other organizations for HUD funding. This final rule follows publication of a January 6, 2003, proposed rule and takes into consideration the public comments received on the proposed rule.

**DATES:** Effective Date: October 30, 2003.**FOR FURTHER INFORMATION CONTACT:**

Ryan Streeter, 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 through 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) Program, 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 these telephone numbers through TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

**SUPPLEMENTARY INFORMATION:****I. Background—The January 6, 2003, Proposed Rule**

On January 6, 2003 (68 FR 648), HUD published a proposed rule to amend certain HUD regulations that imposed (or appeared to impose) unwarranted barriers to the participation of faith-based organizations in HUD programs. HUD recognizes that 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. These organizations frequently have the experience that HUD seeks to administer social services to beneficiaries under HUD programs. Consistent with the President's Executive Order 13198 (Agency Responsibilities with Respect to Faith-Based and Community Initiatives), issued January 31, 2001 (66 FR 8497), HUD undertook a comprehensive review of its program requirements and regulations, particularly those that would be expected to attract interest and participation by nonprofit organizations. Executive Order 13198 directed five agencies, including HUD, to undertake this review and 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.

In response to the directive of the President's Executive Order, HUD identified regulations for eight programs administered by HUD's Office of Community Planning and Development that imposed (or appeared to impose) barriers to participation of faith-based organizations in these programs. HUD's proposed rule of January 6, 2003, was designed to eliminate these barriers and to ensure that these HUD programs are open to all qualified organizations, regardless of their religious character. The January 6, 2003, rule proposed to 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)<sup>1</sup>

<sup>1</sup> Funds are no longer being appropriated for the HOPE 3 program; however, the part 572 regulations

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).

The January 6, 2003, rule proposed to amend each set of program regulations to achieve the following objectives:

1. *Clarify that organizations are eligible to participate in HUD programs without regard to their religious character or affiliation.* The proposed amendments clarified that faith-based organizations are eligible to compete for funding on the same basis and under the same eligibility requirements as all other nonprofit organizations. The fact that an organization is a faith-based organization is not a basis for exclusion from a competition for HUD funds. 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. *Clearly delineate eligible and ineligible uses of HUD funds for all program participants.* The proposed rule provided that eligible and ineligible uses of HUD funds are applicable to all recipients of HUD funds. The proposed rule provided that a recipient organization may not use direct HUD funds to support inherently religious activities, such as worship, religious instruction, or proselytization. If the participating organization engages in these activities, the activities must be offered separately, in time or location, from the programs or services directly 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 any recipient are not used to support inherently religious activities. This restriction does not mean that an organization that receives HUD funds cannot engage in inherently religious activities. It means that an organization cannot pay for these activities with direct HUD funds.

3. *Clarify that faith-based organizations will retain their independence.* The proposed rule clarified that a faith-based organization that participates in HUD programs will

remain in place to provide regulatory guidance to existing HOPE 3 grantees. The regulations in part 572 are included within the scope of this rule to reflect the regulatory revisions applicable to faith-based participation and ensure their consistency with the similar regulations in the other parts covered by this final rule.