

With respect to the concern about the funding of capital improvements for religious structures that are later converted to non-HUD uses, the final rule clarifies that disposition of HUD-improved property after the term of grants to religious organizations, and changes in the use of property improved for use by religious organizations, are subject to government-wide regulations governing real property disposition. HUD has regulations (see 24 CFR parts 84 and 85) that address the terms under which such grantees must use the property for eligible activities, and the terms under which federally funded improvements must be "bought back" if such grantees decide to discontinue their involvement in the program.

X. Comments Regarding the Removal of Assurance Requirements

Comment: HUD should not remove the assurance requirements. Several commenters wrote that by removing the assurance requirements, HUD is condoning religious influences and activities in HUD-funded programs. The commenters wrote that the Federal government has rightly recognized that faith-based organizations are unique in their mission and require unique assurances. The commenters disagreed with HUD's rationale for removing the requirements, writing that HUD requires many certifications and assurances that grantees will comply with various laws and regulations. The commenters wrote that retaining this assurance would not be inconsistent with requiring other assurances of compliance with laws and regulations. Two commenters agreed that it is unfair to apply the assurance requirement only to faith-based organizations, and suggested that rather than eliminating the requirement, HUD should make it applicable to all grantees.

HUD Response. The final rule remains unchanged from the proposed rule on this matter. Additional assurances, such as those that are being removed by this rule, only perpetuate, and unfairly so, a presumption that program requirements applicable to all program participants are insufficient to bind faith-based organizations, and additional requirements and assurances must be imposed on these organizations. No additional requirements are needed.

In issuing this rule, HUD's general approach is that faith-based organizations are not a category of applicants or program participants that require additional requirements or additional oversight in order to ensure compliance with program regulations. In issuing this rule, HUD's approach is that faith-based organizations well

understand that inherently religious activities cannot be undertaken with Federal funding and must remain separate from federally funded activities, and no additional requirements are necessary. The requirements for use of funds under a HUD program apply to, and are binding on, all HUD program participants.

XI. Findings and Certifications

Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, *Regulatory Planning and Review*. OMB determined that this rule is a "significant regulatory action" as defined in section 3(f) of the Order (although not an economically significant regulatory action under the Order). Any changes made to the rule as a result of that review are identified in the docket file, which is available for public inspection in the Regulations Division, Room 10276, 451 Seventh Street, SW., Washington, DC 20410-0500.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) 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 governments or the private sector within the meaning of Unfunded Mandates Reform Act of 1995.

Executive Order 13132, Federalism

Executive Order 13132, Federalism, requires that Federal agencies consult with State and local governments in the development of regulatory policies with federalism implications. Consistent with Executive Order 13132, HUD specifically solicited comment from State and local government officials on the January 6, 2003, proposed rule, and no comments from these entities were submitted that raised federalism concerns.

Environmental Impact

A Finding of No Significant Impact with respect to the environment was made at the proposed rule stage, in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). That Finding remains applicable to this final rule and is available for public inspection between the hours of 7:30 a.m. and 5:30 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.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) has reviewed and approved this final rule and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. The final rule will not impose any new costs, or modify existing costs, applicable to HUD grantees. Rather, the purpose of the final rule is to remove regulatory prohibitions that currently restrict the equal participation of faith-based organizations (large and small) in HUD's programs.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance numbers for the programs affected by this rule are 14.218, 14.219, 14.225, 14.227, 14.228, 14.231, 14.235, 14.237, 14.238, 14.239, 14.241, 14.243, 14.246, 14.248, 14.512, 14.514, and 14.515.

List of Subjects

24 CFR Part 92

Administrative practice and procedure, Grant programs—housing and community development, Grant programs—Indians, Indians, Low and moderate income housing, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

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.

24 CFR Part 572

Condominiums, Cooperatives, Fair housing, Government property, Grant programs—housing and community development, Low and moderate income housing, Nonprofit organizations, Reporting and recordkeeping requirements.