

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**24 CFR Part 583****[Docket No. FR-4576-I-01]****RIN 2506-AC05****Supportive Housing Program—Increasing Operating Cost Percentage****AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.**ACTION:** Interim rule.

SUMMARY: This document amends the Supportive Housing Program regulations by changing the number of years for which the grant can cover 75 percent of operating costs from the first two years to all years of the grant term. This amendment will provide the full statutory flexibility allowed for this activity. Providing greater assurance of a funding source for operating housing under the program will promote more use of the program for housing.

DATES: *Effective date:* June 12, 2000.*Comments Due Date:* July 11, 2000.

ADDRESSES: Submit written comments regarding this interim rule to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410-0500. Comments should refer to the interim rule by title and docket number, as shown above. Facsimile (FAX) comments will not be accepted.

FOR FURTHER INFORMATION CONTACT: John Garrity, Office of Special Needs Assistance Programs, Room 7262, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410; telephone (202) 708-4300 (this is not a toll-free number). Persons with hearing or speech impairments may access the above telephone number via TTY by calling the Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:**Background**

The Department's Supportive Housing Program provides assistance for housing and supportive services for homeless persons, as authorized by Title IV, subtitle C of the Stewart B. McKinney Homeless Assistance Act of 1987, as amended (the McKinney Act) (42 U.S.C. 11381-11389). Grants are available for acquisition, rehabilitation, new construction, and leasing of supportive housing, operating costs in connection with supportive housing, and supportive services provided to homeless persons. The regulations that

implement the program are found at 24 CFR part 583.

Among the types of housing funded under the Supportive Housing Program (SHP) are transitional housing, permanent housing for homeless persons with disabilities, innovative housing projects (or part of project) for, or alternative methods of, meeting the immediate and long-term needs of homeless individuals and families in the transition to permanent housing. Also funded under the program are supportive services.

The authorizing statute permits the grant recipient's match for operating costs for housing to be no more than 25 percent in any year. However, when the program was developed, the rule (§ 583.125(c)) required a 25 percent match of HUD funds with local funds for the first two years, and a 50 percent match thereafter. The authorizing statute contains no comparable match requirement for use of the program to provide services. As a result, the program has favored the use of services, to a large degree.

The HUD Appropriations Acts for Fiscal Years 1999 (112 Stat. 2479) and 2000 (113 Stat. 1063) included two provisions to encourage the use of homeless assistance program funds for supportive housing as opposed to services for homeless persons. These provisions were the requirements that at least 30 percent of the funds be used for permanent housing and that funding for services be required to have at least a 25 percent match.

This Rule

To encourage production of housing with SHP funds, in accordance with the Congressional intent expressed in the Appropriations Acts, this amendment is being made to give applicants the full McKinney Act flexibility allowed for this activity. This interim rule revises § 583.125 so that SHP funds may be used to pay for up to 75 percent of the operating costs in all years of the grant term, making the recipient provide 25 percent of the operating costs of supportive housing for homeless persons for each year of the grant term. Operating costs include actual expenses for supportive housing, such as maintenance, repair, security, utilities, furnishings, and equipment.

Findings and Certifications*Justification for Interim Rule*

HUD generally publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking in 24 CFR part 10. Part 10, however, provides that

prior notice and public comment may be omitted "if the Department determines in a particular case . . . that notice and public procedure are impracticable, unnecessary or contrary to the public interest." (24 CFR 10.1). This interim rule implements a change in the provisions for a match by the grantee, consistent with the statute and Congressional intent, that will have an impact on the applications for the next round of funding under the Supportive Housing Program. That round of funding will take place shortly, in accordance with the Notice of Funding Availability for Fiscal Year 2000 funds. As a result, to make this change in policy effective for Fiscal Year 2000 funding applications, it is necessary to make the change quickly. There is not time to solicit public comments on the change before making it effective if it is to affect this fiscal year. Accordingly, HUD determines that it is unnecessary to solicit public comments before making the policy effective, and it is issuing this interim rule for effect without prior notice and comment. Nevertheless, the Department solicits comments from the public on the rule and will consider comments received before issuing a final rule.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule will provide greater flexibility to local governments in the way they administer their Supportive Housing Programs. It will have no measurable economic impact on small businesses.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made 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. 4223). That Finding 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, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410.

Executive Order 13132, Federalism

This interim rule does not have federalism implications. It does not impose substantial direct costs on States and local governments or preempt State

law within the meaning of Executive Order 13132.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number for the program affected by this interim rule is 14.235.

List of Subjects in 24 CFR Part 583

Homeless, Rent subsidies, Reporting and recordkeeping requirements, Supportive housing programs—housing and community development, Supportive services.

Accordingly, for reasons stated in the preamble, HUD amends part 583 of title

24 of the Code of Federal Regulations as follows:

PART 583—SUPPORTIVE HOUSING PROGRAM

1. The authority citation for part 583 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 11389.

2. Revise paragraph (c) of § 583.125 to read as follows:

§ 583.125 Grants for operating costs.

* * * * *

(c) *Recipient match requirement for operating costs.* Assistance for operating

costs will be available for up to 75 percent of the total cost in each year of the grant term. The recipient must pay the percentage of the actual operating costs not funded by HUD. At the end of each operating year, the recipient must demonstrate that it has met its match requirement of the costs for that year.

Dated: April 21, 2000.

Cardell Cooper,

Assistant Secretary for Community Planning and Development.

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