

is financed through a separate rehabilitation loan. This rule change clarifies the requirement that monthly payments for HOPE 3 Program required rehabilitation, whether it occurs before or after the family takes title to the property, should be considered in the family's affordability calculation. Deferred payment loans due on sale do not need to be included, since they do not represent a monthly financial burden.

Several grantees have requested a change to § 572.115(a) concerning the deadline for property transfers. Those grantees felt that there was an inconsistency between § 572.115(a) and § 572.225(d) in the current regulation. Section 572.115(a) states that all units in eligible properties must be transferred to eligible families within two years of the effective date of the grant agreement, whereas § 572.225(d) states that remedial action may be taken if a grantee fails to provide at least 70 percent of the number of homeownership opportunities proposed in the application within four years of the effective date of the grant agreement. After reviewing these sections, the Department has determined that an inconsistency does not exist between the requirements. Both § 572.115(a) and § 572.225(d) will be retained as program requirements. Section 572.115(a) simply establishes a requirement to transfer properties to families within two years (which can be extended to three years by the Field Office). Section 572.115(a) does not deal at all with the grantee's program volume goals in its HUD-approved application. On the other hand, § 572.225(d) is intended as a minimum performance standard in the event that grantees, due to unforeseen circumstances, such as unanticipated costs incurred by grantees in program implementation due to changes in market conditions, are unable to provide the total number of homeownership opportunities proposed in their applications. Remedial action may be taken under § 572.225(d) at the time of program closeout. A change has been made in § 572.210(f) to permit HUD Field Offices to approve a one year extension of the deadline for completion of activities, and the six-month limit on extensions by Headquarters has been deleted.

Section 572.135(c), which concerns the use of sale and resale proceeds, is changed to remove the prohibition against "commingling" of HOPE 3 grant or match funds with sale and resale proceeds. Under the current regulation, grantees have found it difficult to use their grant funds within the required timeframes if they are first required to

utilize their sale and resale proceeds. The problem is compounded because grantees must use their sale proceeds within one year of receipt even though the accumulated amount of sale proceeds is often not sufficient to carry out a viable activity. This rule change will allow grantees to expeditiously use their resale and sale proceeds to carry out eligible activities by permitting the proceeds to be used at the same time on the same properties with grant or match funds. However, since eligible uses of grant or match funds are somewhat more limited than uses of sale/resale proceeds, grantees should assure that they maintain records sufficient to document the eligible use of both types of funds in accordance with the HOPE 3 Program regulations.

In addition to the above change, the last sentence of § 572.135(c) has been revised. This provision required that the grant recipient, or any other entity approved by HUD to administer the sale and resale proceeds, remain responsible to comply with the existing requirements of the HOPE 3 Program notwithstanding closeout of the HOPE 3 grant. The revision provides that HUD may specify alternative requirements, to the extent permitted by then applicable law, for the approved entity to follow.

A new paragraph (g) has been added at § 572.210 in reference to program closeout in anticipation of the issuance of additional guidance that is currently being developed.

Finally, the references to the 33 percent match requirement in § 572.210 and § 572.220 are amended to reflect a legislative change established by the Multifamily Housing Disposition Reform Act of 1994 ("1994 Act"), which reduced the match requirement from 33 percent to 25 percent of the amount of the implementation grant. The language of the regulation reflects the fact that this legislation affects only grants awarded by HUD (based on the date of HUD obligation of funds) after April 11, 1994, the effective date of the 1994 Act. Therefore, all grants made pursuant to the FY 1995 HOPE 3 NOFA recently published will be governed by the 25 percent match requirement.

### III. Findings and Certifications

#### *Justification for Interim Rulemaking*

The Department has determined that this interim rule should be adopted without the delay occasioned by requiring prior notice and comment. This interim rule only makes a number of clarifying changes to existing provisions. The purpose of the changes is to correct provisions of the final rule which unnecessarily create operational

difficulties and to streamline program implementation. As such, prior notice and comment are unnecessary under 24 CFR part 10.

#### *Environmental Review*

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. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk.

#### *Impact on Small Entities*

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the undersigned hereby certifies that this interim rule does not have a significant economic impact on a substantial number of small entities. The rule governs the procedures under which HUD will make assistance available to applicants under a program designed to provide homeownership opportunities to low-income families and individuals.

#### *Regulatory Agenda*

This interim rule was not listed in the Department's Semiannual Agenda of Regulations published on May 8, 1995 (60 FR 23368, 23394) under Executive Order 12866 and the Regulatory Flexibility Act.

#### *Federalism Impact*

The General Counsel has determined, as the Designated Official for HUD under section 6(a) of Executive Order 12612, Federalism, that this interim rule does not have federalism implications concerning the division of local, State, and federal responsibilities. This rule only clarifies existing requirements without significantly affecting the relationship between the Federal government and other public bodies or the distribution of power and responsibilities among various levels of government.

#### *Impact on the Family*

The General Counsel, as the designated official under Executive Order 12606, The Family, has determined that this interim rule would have an indirect, though beneficial, impact on family formation, maintenance, and general well-being. Assistance provided under this rule can be expected to support family values, by helping families achieve security and independence; and by enabling them to live in decent, safe, and sanitary