

Executive Order 12612, *Federalism*, has determined that this rule does not have “federalism implications” because it does not have substantial direct effects on the States (including their political subdivisions), or on the distribution of power and responsibilities among the various levels of government. This rule pertains to certain PHAs that are subject to Annual Contributions Contracts (ACCs) under the U.S. Housing Act of 1937 and the requirements that they must meet in order to demolish or dispose of public housing.

Executive Order 12606, the Family

The General Counsel, as the Designated Official under Executive Order 12606, *the Family*, has determined that this rule does not have potential significant impact on family formation, maintenance, and general well-being because it redefines previous demolition and disposition criteria so as to hold applications for demolition and disposition to more stringent requirements.

Information Collection

The collection of information requirements contained in this rule have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980 and have been assigned OMB control number 2577-0075.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule does have a significant economic impact on a substantial number of small entities because the 1987 Act provides for substantial contributions of funds by the Federal government to assist in bearing the costs associated with the policy changes reflected in the rule. This cost sharing is, of course, available both to large and small PHAs whose demolition and disposition decisions are affected by the rule.

Semi-Annual Agenda of Regulations

This rule was listed as item number 1899 in the Department’s Semiannual Agenda of Regulations published on November 14, 1994 (59 FR 57632, 57673) in accordance with Executive Order 12866 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 970

Grant programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

Accordingly, the interim rule amending 24 CFR part 970 which was published at 53 FR 30984 on August 17, 1988, is adopted as a final rule with the following changes:

PART 970—PUBLIC HOUSING PROGRAM—DEMOLITION OR DISPOSITION OF PUBLIC HOUSING PROJECTS

1. The authority citation for part 970 continues to read as follows:

Authority: 42 U.S.C. 1437p and 3535(d).

2. Section 970.2 is revised to read as follows:

§ 970.2 Applicability.

(a) This part applies to public housing projects that are owned by public housing agencies (PHAs) and that are subject to Annual Contributions Contracts (ACCs) under the Act. It also applies to Section 23 bond-financed projects that have received modernization (i.e., Comprehensive Improvement Assistance Program (CIAP) or Comprehensive Grant funds (CGP)). This part does not apply to the following:

(1) PHA-owned Section 8 housing, or housing leased under section 10(c) or section 23 of the Act, except for section 23 bond-financed projects that have received modernization funding under the CIAP or the Comprehensive Grant Programs;

(2) Demolition or disposition before the End of the Initial Operating Period (EIOP), as determined under the ACC, of property acquired incident to the development of a public housing project; (however, this exception shall not apply to dwelling units);

(3) The conveyance of public housing for the purpose of providing homeownership opportunities for lower income families under section 21 of the Act, the Turnkey III/IV or Mutual Help Homeownership Opportunity Programs, or other homeownership programs established under sections 5(h) or 6(c)(4)(D) of the Act and in existence before February 5, 1988, the date of enactment of the 1987 Act. (Where a plan submitted by the PHA for homeownership includes a component of demolition, the plan must meet the requirements of section 18 and this part.);

(4) The leasing of dwelling or nondwelling space incident to the normal operation of the project for public housing purposes, as permitted by the ACC;

(5) The reconfiguration of the interior space of buildings (e.g., moving or removing interior walls to change the design, sizes, or number of units)

without “demolition”, as defined in § 970.3. (This includes the conversion of bedroom size, occupancy type, changing the status of unit from dwelling to nondwelling.);

(6) Easements, rights-of-way and transfers of utility systems incident to the normal operation of the development for public housing purposes, as permitted by the ACC;

(7) A whole or partial taking by a public or quasi-public entity through the exercise of its power of eminent domain; however, HUD requirements with respect to the replacement housing requirement for one-for-one dwelling units shall be followed (see HUD Handbook 7486.1, Demolition, Disposition and Conversion);

(8) Disposition of a public housing project in accordance with an approved homeownership program under title III of the United States Housing Act of 1937 (42 U.S.C. 1437p) (HOPE 1);¹

(9) Demolition after conveyance of a public housing project to a non-PHA entity in accordance with an approved homeownership program under title III of the United States Housing Act of 1937 (42 U.S.C. 1437p) (HOPE 1); and

(10) Units leased for non-dwelling purposes for one year or less.

(b) Demolition or disposition that was approved by HUD before February 5, 1988, but not carried out by that date, may be carried out according to the terms of such approval, without reference to subsequent amendments to this part and without obtaining any further HUD approval.

3. Section 970.3 is amended by adding in alphabetical order a definition for “Chief Executive Officer of a unit of general local government”, to read as follows:

§ 970.3 Definitions.

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Chief Executive Officer of a unit of general local government means the elected official or the legally designated official, who has the primary responsibility for the conduct of that entity’s governmental affairs. Examples

¹ In keeping with section 412(b) of the National Affordable Housing Act (Pub.L. 101-625), the provisions of this part do not apply to the disposition of a public housing project in accordance with an approved homeownership program under title III of the United States Housing Act of 1937, as added by section 411 of that legislation, (HOPE 1 for Public and Indian Housing Homeownership). In the case of a HOPE 1 proposal from a PHA involving partial or total demolition of units, this part does apply. HOPE 3 proposals involving public housing units approved prior to the 1992 Act are likewise covered by the requirements of section 18. [The 1992 Act took scattered-site single family public housing from under the requirements of HOPE 3 and moved it to HOPE 1.]