

was consistent with similar HUD programs. Any Youthbuild recipient organization that wishes to impose longer restrictions on the use of a property could do so on its own.

Comment: HUD should not limit tenants with incomes between 60 and 80 percent of the area median income to only one year. This restriction should be removed. [two public housing authorities]

Response: HUD agrees that the one year limit may be too restrictive and has raised it to two years in § 585.309(a).

Comment: When project-related restrictions apply to Youthbuild residential rental housing, the requirement that units be advertised for low-income people should be reduced from 90-day periods to 60-day periods. [one housing authority]

Response: Because the maximum length of time that a tenant with an income between 60 and 80 percent of the area median income is allowed to rent a Youthbuild-assisted building has been raised from one to two years (see above), HUD believes it is necessary to maintain the 90-day requirement to ensure availability to lower-income tenants.

Comment: When a recipient has successfully completed the activities of a planning grant, it would be rare for such an investment of time and money to yield no workable program. HUD should guarantee that all planning recipients be awarded an implementation grant in the next funding cycle. [one public housing authority]

Response: While HUD agrees that a planning recipient will likely have a viable project at the end of its planning grant term, it may need additional time to be ready to implement a program that is superior to those of other applicants that did not receive planning grants. Further, given the number of planning grants awarded during the first funding round, there are insufficient funds to award implementation grants to each planning grant recipient. Each funding round is statutorily required to be a competition for funds, and fairness dictates that each application for funding be evaluated on its merits, regardless of whether the applicant received a previous planning grant. HUD also believes that the process of planning for a Youthbuild implementation grant is a valuable exercise, whether or not a HUD-funded Youthbuild implementation program is the result.

Comment: HUD should not require programs to channel participants into programs leading to a high school diploma or post-secondary education,

because some participants may not be capable of reaching those goals and such expectations may lead them to drop out of the program. [one public housing authority]

Response: HUD believes that earning a high school diploma or its equivalent is crucial to achieving self-sufficiency. However, the educational component of the program does not require that participants achieve a high school equivalency, but merely requires recipients to provide services and activities designed to meet the basic education needs of participants. This requirement is sufficiently flexible to allow recipients to provide educational services that are appropriate to their individual participants.

Comment: HUD should not require applicants for planning grants to present information on the need for the program, considering that feasibility studies are eligible activities under the planning grant. [one public housing authority]

Response: Need, based on distress of the community, is a statutory selection criterion and is fundamentally different from feasibility studies. To present information on the degree of economic distress in a community in response to the Need rating criterion, an applicant must do research on the poverty, unemployment, dropout rate, and other factors currently existing in the community. Feasibility studies are eligible activities under the planning grant. Instead of assessing the current level of economic distress of the community, a feasibility study would focus on the physical environment, housing stock, and the social, human, and financial resources available for a Youthbuild program.

Comment: Given that HUD may approve more than the \$1 million maximum if the application proposes to serve a large number of participants, HUD should indicate whether the number of participants is a factor in the rating of an application, and, if so, should specify the average expected number of participants. [one public housing authority]

Response: HUD does not have strict participant enrollment requirements but does consider the reasonableness of cost per student in rating program quality and feasibility. HUD also recognizes that costs may vary depending on the location of the program.

Comment: HUD should allow program recipients to make stipends high enough to compete with illegal endeavors by participants. [one public housing authority]

Response: HUD does not stipulate a stipend level, and leaves the amount up

to the individual applicants. Unreasonable and excessive stipend levels will be considered in rating program quality and feasibility.

Comment: HUD should state in the rule that stipends may not result in a rent increase for program participants. [one public housing authority]

Response: The enabling statute and rule state that the Youthbuild program is subject to section 142 of the Job Training Partnership Act. Section 142(b) of the JTPA states that such wages and stipends are not considered as income for any Federal or Federally-assisted program based on need, other than those under the Social Security Act.

Comment: HUD should strike the requirement that applicants may not commit or expend State, local or other funds to undertake property acquisition, rehabilitation or construction until a grant agreement is executed by HUD. [one city housing agency]

Response: This provision only applies when Youthbuild funds have been requested to acquire, rehabilitate, or newly construct a property. The purpose is to allow HUD to conduct an environmental review on the property, which the statute requires to be done before an application can be approved. Applicants that expend their own or other funds on a proposed property are in jeopardy of using their funds on a property that could potentially be deemed ineligible as a result of the environmental review. If an applicant proposes to fund the acquisition, rehabilitation, or new construction entirely with non-Youthbuild funds, there is no restriction on using those funds before notification of grant award. Section 585.307(a)(3) has been changed to clarify this distinction.

Comment: The provision that makes Davis-Bacon prevailing wage rates not applicable to program participants should be expanded to include state and local wage rate restrictions. [one city housing agency]

Response: The provision making Davis-Bacon wage rates inapplicable to Youthbuild trainees is required by a specific statutory provision. HUD has no authority to declare State and local wage regulations inapplicable on the basis of an employee's status as a Youthbuild trainee. However, in this final rule, the Department has revised the provision in the proposed rule regarding the need to apply Davis-Bacon prevailing wage rates to Youthbuild trainees where additional Federal assistance is provided. Subsequent to the issuance of the proposed rule, the Department's attention was drawn to a decision of the United States Department of Labor's Wage Appeals Board in the matter of