

100 Court Ave. Street Project, Kurtz Building, UDAG Proj. No. B-83-AA-19-0020, Des Moines, Iowa (WAB Case No. 88-9, March 16, 1990). That case concerned a project involving training under the Job Training Partnership Act (JTPA), which excludes trainees from Davis-Bacon requirements, as well as assistance under the Urban Development Action Grant (UDAG) program, which has its own Davis-Bacon provisions. The Wage Appeals Board determined that JTPA's statutory Davis-Bacon exclusion for trainees applied to exclude a JTPA trainee from Davis-Bacon rate requirements even where the trainee was employed on the UDAG project. Since the Housing and Community Development Act of 1992 applies the JTPA Davis-Bacon provision (and its exclusion of trainees from Davis-Bacon rates) to the Youthbuild program, the Department has concluded that the Wage Appeals Board's ruling is applicable to the Youthbuild program. Accordingly, the final rule provides that Davis-Bacon wage rates are not applicable to Youthbuild trainees, regardless of whether other Federal assistance is involved. However, neither the JTPA provision nor the Wage Appeals Board decision excludes trainees from wage rates other than Davis-Bacon wage rates. Therefore, the rule notes that Youthbuild trainees must be paid HUD-determined wage rates on public and Indian housing work where those rates would be applicable to trainees under the United States Housing Act of 1937 (e.g., on work such as "non-routine maintenance"). However, where HUD wage rates are applicable to trainees, the rates determined by HUD to apply to Youthbuild trainees will be trainee wage rates rather than journeyman rates.

*Comment:* Limitations on profit imposed on housing should not apply to projects which are owned by governmental agencies. [one city housing agency]

*Response:* This is a statutory restriction, that has been interpreted to apply only when construction is financed, in whole or in part, with Youthbuild funds. (See § 585.309)

*Comment:* The rule should include all of the essential purposes of the program that were stated in the legislation. [one nonprofit organization]

*Response:* The purpose of the Youthbuild program in § 585.2 has been revised accordingly.

*Comment:* HUD should state that construction site supervisors essential for the training of the participants are not considered construction or rehabilitation costs. [one nonprofit organization]

*Response:* Section 585.306 has been added to make that clarification.

*Comment:* Related facilities which stand alone should be considered appropriate construction sites for trainees. [one nonprofit organization]

*Response:* HUD construes the term "housing and related facilities" to mean residential property, which does not include stand-alone facilities that do not include housing.

*Comment:* The definition of the term "self-sufficiency" should be providing for oneself and one's immediate "dependents," not "family." [one nonprofit organization]

*Response:* The definition of "self-sufficiency" has been deleted from the final rule.

*Comment:* In the list of "Other activities" as delineated in the discussion of program components, "short-term placement with private contractors as internships to enhance the participant's preparation for unsubsidized employment" should be added. [one nonprofit organization]

*Response:* The list of "other activities" is not exclusive, and a variety of other activities can be done under this heading.

*Comment:* The Corporation for National and Community Service should be added to the list of other Federal entities from which applicants are encouraged to enlist support. [one nonprofit organization]

*Response:* The list of potential resources in § 585.105 comes from the statute, and is not intended to be a comprehensive list or limitation of all possible resources that can be used in the program.

*Comment:* The requirements for the Performance Evaluation Report and Quarterly Progress Report should include additional information. [one nonprofit organization]

*Response:* All specific reporting elements of the required reports have been deleted from the Rule and are now contained in Youthbuild Program Reports (HUD-40201).

*Comment:* Additional points should be given for counseling and leadership development services; the points for housing resources and the housing priority points seem excessive; the requirements for public support are not realistic. [one nonprofit organization]

*Response:* The rule has been amended to state only the statutory rating criteria. The point awards and subcategories of statutory and administratively imposed criteria will be announced for each competition in the NOFA for that fiscal year.

*Comment:* The discussion of Geographic Diversity provides that

lower ranked applications will be selected if any of the 10 HUD Regions receive substantially fewer awards; this language does not reflect the differences in need and interest between the HUD regions. [one nonprofit organization]

*Response:* HUD regions have been abolished under the Department's recent reorganization. HUD reserves the right to invoke this provision to ensure fairness and meet the needs of distressed communities.

#### Other Matters

a. *Environmental Impact.* A Finding of No Significant Impact with respect to the environment for this rule 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, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, S.W., Washington, D.C. 20410.

b. *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 would not have a significant economic impact on a substantial number of small entities because the Youthbuild program affects primarily economically disadvantaged young adults by providing assistance for a wide range of multi-disciplinary activities to assist those young adults. The opportunities are designed to help disadvantaged young adults who have dropped out of high school to obtain the education and employment skills necessary to achieve economic self-sufficiency and develop leadership skills and a commitment to community development in low-income communities. A related objective of the program is to add to the supply of permanent affordable housing for homeless persons and members of low- and very low-income families by giving young adults participating in the program meaningful on-site training experiences in construction and rehabilitation of housing. It is anticipated that fewer than 120 projects will receive assistance under this program.

c. *Executive Order 12612, Federalism.* The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that this rule does not have "federalism implications" because it