

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
STATEMENT OF REGULATORY PRIORITIES
FOR FISCAL YEAR 2024

Introduction

The Regulatory Plan for the Department of Housing and Urban Development (HUD) for Fiscal Year (FY) 2024 highlights two significant regulations and policy initiatives that HUD seeks to complete during the upcoming fiscal year. As the Federal agency that serves as the nation's housing agency, HUD is committed to ensuring everyone has an affordable, healthy place to live. As a result, HUD plays a significant role in the lives of families and in communities throughout America.

HUD is currently working to meet the goals of its Strategic Plan to: support underserved communities, ensure access to and increase the production of affordable housing, promote homeownership, advance sustainable communities, and strengthen HUD's internal capacity. Under the leadership of Secretary Marcia L. Fudge, HUD is dedicated to implementing the Administration's priorities by setting forth initiatives related to increasing equity and improving customer experience across all HUD programs.

The rules highlighted in HUD's regulatory plan for FY 2023 reflect HUD's efforts to continue its work in building strong and sustainable communities and addressing the housing needs of all Americans. Additionally, HUD notes that the FY 2023 Semiannual Regulatory Agenda includes additional rules that advance the Administration's priorities, including rules to advance racial equity and civil rights and rules to provide economic relief to homeowners and renters.

HOME Investment Partnerships Program: Program Updates and Streamlining

HUD's HOME Investment Partnerships Program (HOME) provides formula grants to States and units of general local government to fund a wide range of activities to produce and maintain affordable rental and homeownership housing and provides tenant-based rental assistance for low-income and very low-income households.

This rule proposes to revise the current HOME regulations at 24 CFR part 92 to update, simplify, and streamline requirements, better align the program with other Federal housing programs, and implement recent amendments to the HOME statute. Specifically, the proposed changes to the HOME program include significant revisions to the community housing development organization requirements, a change

in the approach to HOME rents, simplified requirements for small-scale rental projects, enhanced flexibility in tenant-based rental assistance (TBRA) programs, and simplified provisions and new flexibilities for community land trusts. The proposed rule would also strengthen and expand tenant protections, and create incentives for meeting green building standards in new construction, reconstruction, and rehabilitation of housing.

Aggregate Costs and Benefits

Executive Order 12866, as amended, requires the agency to provide its best estimate of the combined aggregate costs and benefits of all regulations included in the agency's Regulatory Plan that will be pursued in fiscal year 2024. HUD expects that neither the total economic costs nor the total efficiency gains will exceed \$200 million for this proposed rulemaking. In fact, the direct economic impact of this rule would be almost entirely within the HOME program. In other words, the proposed changes would affect what participating jurisdictions do with the HOME funds they receive from HUD and how projects that accept this funding source can operate. Many of the policy adjustments proposed would only have a practical impact if participating jurisdictions choose to participate in HOME-funded activities that are affected by the updated policies.

Statement of Need

The HOME program is authorized by title II of the Cranston-Gonzalez National Affordable Housing Act ("NAHA") (42 U.S.C. 12721 *et seq.*). Title II of NAHA has not been significantly revised since the HOME program was last reauthorized by Congress in 1992. The constraints of the prescriptive statutory authority of title II of NAHA limit the scope of changes that the Department can propose to the HOME program regulations. Working within these limitations, the Department conducted a comprehensive review of title II of NAHA and current HOME program regulations to determine whether previously unrecognized opportunities might exist to revise current regulatory provisions. In creating the proposed rule, the Department focused on its commitment to equity and wealth-building and considered input from stakeholders on the most challenging aspects of administering and using HOME funds to provide affordable housing. This proposed rule is necessary to reduce the burden and increase flexibility for participating jurisdictions and other program participants, while adhering to statutory intent and requiring responsible management of State and local HOME programs.

This proposed rule also incorporates changes made by the Housing Opportunity Through Modernization Act of 2016 (HOTMA) and recent amendments to the HOME statute.

Alternatives:

An alternative to promulgating this rule would be to maintain HUD's existing regulations governing the HOME program. However, doing so would mean failing to fully benefit from the advantages of streamlining, updating, and simplifying our regulations. It would also mean that HUD would fail to adjust its HOME regulations to be fully consistent with HOTMA and recent amendments to the HOME statute.

Risks:

This proposed rule would impose tenant protections that may not be currently applicable to other affordable housing funding sources (e.g., the Low-Income Housing Tax Credit program). This could result in some project owners and developers becoming hesitant to include HOME funds in the capital funding stack of affordable housing projects. Additionally, this proposed rule would make updates throughout the HOME regulation, including significant updates to a number of sections within the regulation. This could lead to a partially challenging transitional period for participating jurisdictions and other stakeholders as they learn and implement the new regulations into their policies and procedures.

TIMETABLE:

Action	Date	FR Cite
NPRM	12/00/2023	

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: Local, State
Federalism Affected: No
Energy Affected: No
International Impacts: No

Section 184 Indian Home Loan Guarantee Program

Section 184 of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992) (12 U.S.C. 1715z-13a), as amended, authorizes the Section 184 Indian Home Loan Guarantee Program (Section 184 Program) to improve access to private financing for Native American

families, Tribes, and Tribally Designated Housing Entities (TDHEs) by providing a loan guarantee to financial organizations who lend to them.

This rule would modernize and enhance the regulations governing the Section 184 Program. Through the Section 184 Program, HUD guarantees home mortgage loans made to Native American borrowers in certain areas. The Section 184 Program facilitates homeownership and improves access to capital in Native American communities.

Since its inception in 1994, the number of loans guaranteed under the Section 184 Program has increased significantly but its regulations have never been substantially revised.

In 2015, the HUD Office of Inspector General (OIG), audited the Section 184 Program and recommended that HUD develop and implement policies and procedures for monitoring and evaluating the Section 184 Program, standardize monthly delinquency reports, deny payments to lenders for claims on loans that have material underwriting deficiencies, take enforcement actions against certain lenders, and ensure that only underwriters that are approved by HUD are underwriting Section 184 loans. This rule is part of the improvements to the Section 184 Program that HUD is pursuing to address the findings in the audit.

In developing this rule, HUD engaged in robust consultation with Tribes consistent with HUD's Tribal Consultation policy. As early as 2018, prior to drafting the proposed rule, HUD held eleven in-person Tribal consultation sessions to outline HUD's vision for the rule and obtain feedback from the tribes. As HUD completed drafts of various subparts of the regulation, HUD shared these drafts with Tribes and held three additional in-person consultations to solicit Tribal feedback on each subpart of the proposed rule. During this time, HUD also held two in-person Tribal consultations and two national teleconferences to review the draft proposed rule. In addition to the Tribal consultation sessions held prior and during the drafting of the proposed rule, HUD conducted ten additional consultations during the proposed rule public comment period. HUD held six regional consultation sessions and four national consultation sessions between December 2022 and March 2023. During these consultation sessions, HUD continued to solicit input and answered questions participants had about the proposed rule.

The regulations proposed in this rule, drafted in consideration of the public comments and tribal consultations, would strengthen and comprehensively modernize the operation of the Section 184

Program. Specifically, this rule would make the Section 184 Program sustainable, protect Borrowers, address weaknesses identified by OIG, provide clarity for new and existing Direct Guarantee and Non-Direct Guarantee Lenders, and reduce unreasonable claim payment requests from Servicers. Many of the procedures and policy proposed by the proposed rule adopt industry standards and best practices and do not differ from existing HUD guidance or current practice within the Section 184 Program, which are often documented in HUD guidance such as “PIH Notices” and “Dear Lender Letters”.

Aggregate Costs and Benefits

Executive Order 12866, as amended, requires the agency to provide its best estimate of the combined aggregate costs and benefits of all regulations included in the agency's Regulatory Plan that will be pursued in FY 2022. HUD expects that neither the total economic costs nor the total efficiency gains will exceed \$100 million. Expanding oversight, improving loan origination quality, enhancing loss mitigation and foreclosure prevention, and implementing new claims procedures will all help to ensure the fiscal stability of the Section 184 Loan Guarantee Fund. While most of the requirements and policies in the proposed regulations mirror existing practices within the Program, some are expected to have a marginal economic impact on mortgagees, Tribes, and borrowers. These impacts could impose slightly greater administrative costs on participating lenders and shift some risk from the Fund to participating lenders.

Statement of Need

Since its inception, the number of loans guaranteed under the Section 184 Program has significantly increased. At the same time, the program regulations have never been substantially revised. This rule helps to address housing challenges that Native American households continue to face, particularly: overcrowding and a lack of affordable housing in tribal areas; and access to mortgage credit outside of tribal area.

In 2015, the OIG recommended that HUD develop and implement policies and procedures for monitoring and evaluating the Section 184 Program, standardize monthly delinquency reports, deny payments to lenders for claims on loans that have material underwriting deficiencies, take enforcement actions against certain lenders, and ensure that only underwriters that are approved by HUD are underwriting Section 184 loans. This rule provides additional structure to the Section 184 Program and is part of the OIG's corrective action plan.

Alternatives:

An alternative to promulgating this rule would be to maintain HUD's existing regulations and practices concerning the Program. However, doing so would ignore the OIG's recommendations and pose a greater risk to the Section 184 Loan Guarantee Fund and the Program, as demand for the Program has significantly increased since its inception.

Risks:

This rule could slightly increase the administrative costs for lenders that participate in the Program and dissuade some lenders from participating in the Program. However, in the long-term, enhanced loan origination and loss mitigation and foreclosure prevention options will help to strengthen the vitality of the Program; thus, making the Program more attractive for lenders.

TIMETABLE:

Action	Date	FR Cite
NPRM	12/21/2022	87 FR 78324
NPRM Comment Period End	3/17/2023	
Final Rule	03/00/2024	

Regulatory Flexibility Analysis Required:	No
Small Entities Affected:	No
Government Levels Affected:	No
Federalism Affected:	No
Energy Affected:	No
International Impacts:	No