

report on multiple open grants in each APR, thereby improving data quality and reducing reporting burden. In compliance with requirements of 5 CFR 1320.13, the agency cannot reasonably comply with the normal clearance procedures under this part because the statutory changes accelerate the submission of the IHP starting in fiscal year 2011. With implementation of the statutory changes, the IHP is due 75 days prior to the beginning of the grantee's fiscal year. For grantees with a fiscal year beginning in October 1, 2010, the revised IHP will be due July 16, 2010.

*Title of Proposed Notice:* Indian Housing Block Grant Program (Combined Indian Housing Plan and Annual Performance Reporting Requirements).

*Description of Information Collection:* This is a revision of a previously approved information collection. The Department of Housing and Urban Development is seeking emergency review of the Paperwork Reduction Act requirements associated with HUD's proposed combined IHP/APR. The combined reporting format will simplify the reporting process, improve the quality of data submitted annually, and reduce the annual burden for recipients IHBG funds. As a result, HUD will receive improved reporting data for monitoring a recipient's performance and determining program compliance.

*OMB Control Number:* 2577-0218.

*Agency Form Numbers:* HUD-52735, HUD-52735-AS. (This revision modifies and combines both the HUD-52735 and 52735-AS and requests that the revised combined form be assigned a new form number or letter designation. Prior editions of the HUD-52735 should become obsolete. The HUD-52735-AS will need to be used for approximately three more years.)

*Members of Affected Public:* Tribes and tribally designated housing entities.

*Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of responses, and hours of responses:* The estimated number of respondents is 366; the frequency of response is once per year; and the total reporting burden will reduce significantly from the current total reporting time of 93,308 hours to 52,941 hours.

**Authority:** The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: May 17, 2010.

**Leroy McKinney, Jr.,**  
*Departmental Reports Management Officer,*  
*Office of the Chief Information Officer.*

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5397-N-01]

RIN 2502-ZA05

### Federal Housing Administration (FHA)—Temporary Exemption From Compliance With FHA's Regulation on Property Flipping

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Notice.

**SUMMARY:** This notice announces that FHA has waived its regulation that prohibits the use of FHA financing to purchase properties that are being resold within 90 days of the previous acquisition. Prior to the waiver of this regulation, which took effect for all sales contracts executed on or after February 1, 2010, a mortgage was not eligible for FHA insurance if the contract of sale for the purchase of the property that is the subject of the mortgage is executed within 90 days of the prior acquisition by the seller and the seller does not come under any of the exemptions to this 90-day period that are specified in the regulation. During this period of high foreclosures, FHA seeks to encourage investors that specialize in acquiring and renovating properties to renovate foreclosed and abandoned homes with the objective of increasing the availability of affordable homes for first-time and other purchasers and helping to stabilize real estate prices as well as neighborhoods and communities where foreclosure activity has been high. While the waiver is granted for the purpose of stimulating rehabilitation of foreclosed and abandoned homes, the waiver is applicable to all properties being resold within the 90-day period after prior acquisition, and is not limited to foreclosed properties.

The waiver, however, has conditions, and eligible mortgages must meet the conditions specified in this notice. Additionally, the waiver is not applicable to mortgages insured under HUD's Home Equity Conversion Mortgage (HECM) Program.

Although the waiver is currently in effect, HUD seeks comments from industry, potential purchasers, and other interested members of the public

on the conditions which must be met for the waiver to be provided. Comments will be taken into consideration in determining whether any modifications should be made to the waiver eligibility conditions.

**DATES:** *Effective Date:* February 1, 2010 through February 1, 2011.

*Comment Due Date:* June 21, 2010.

**ADDRESSES:** Interested persons are invited to submit comments regarding this rule to the Regulations Division, Office of General Counsel, 451 7th Street, SW., Room 10276, Department of Housing and Urban Development, Washington, DC 20410-0500.

Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

*1. Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 10276, Washington, DC 20410-0500.

*2. Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the <http://www.regulations.gov> Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

**Note:** To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule.

*No Facsimile Comments.* Facsimile (FAX) comments are not acceptable.

*Public Inspection of Public Comments.* All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Individuals with speech or hearing

impairments may access this number through TTY by calling the Federal Information Relay Service at 800-877-8339. Copies of all comments submitted are available for inspection and downloading at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Margaret E. Burns, Director, Office of Single Family Program Development, Office of Housing, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410-8000; telephone number 202-708-2121 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 800-877-8339.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Section 203.37a(b)(2) of HUD's regulations (24 CFR 203.37a(b)(2)) establishes FHA's rule on property flipping and this section provides that FHA will not insure a mortgage for a property if the contract of sale is executed within 90 days of the acquisition of the property by the seller. Section 203.37a(c) lists the sales transactions that are exempt from this rule. The exempt transactions include, for example, sales by HUD of real estate-owned (REO) properties under HUD's regulations in 24 CFR part 291, sales by another federal agency of REO properties, sales of properties by nonprofit organizations that have been approved to purchase and resell HUD REO properties, and sales by state- and federally-chartered financial institutions and government sponsored enterprises, to name a few.

Property "flipping" refers to the practice whereby a property recently acquired is resold for a considerable profit with an artificially inflated value, often the result of a lender's collusion with the appraiser. Most property flipping occurs within a matter of days after acquisition, and usually with only minor cosmetic improvements, if any. In an effort to preclude this predatory lending practice with respect to mortgages insured by FHA, HUD issued a final rule on May 1, 2003 (68 FR 23370) that provides in 24 CFR 203.37a that FHA will not insure a mortgage if the contract of sale for the purchase of the property that is the subject of the mortgage is executed within 90 days of the prior acquisition by the seller and the seller does not come under any of the exemptions to this 90-day period that are specified in § 203.37a(c). In a final rule published on June 7, 2006 (71 FR 33138), HUD expanded the

exceptions contained in § 203.37a(c) to the 90-day time restrictions to include such transactions as sales of single family properties by government-sponsored enterprises (GSEs), state- and federally-chartered financial institutions, nonprofits organizations approved to purchase HUD Real Estate-Owned (REO) single family properties at a discount with resale restrictions, local and state governments and their instrumentalities, and, upon announcement by HUD through issuance of a notice, sales of properties in areas designated by the President as federal disaster areas.

The downturn in the housing market over the last two years has seen a rapid rise of homeowners defaulting on mortgages and consequently a rise in foreclosed homes. A variety of measures to avoid foreclosures have been initiated at the federal, state and local level, most notably the Administration's Home Affordable Modification Program. Despite these efforts to keep families in their homes, foreclosures remain high and not only do foreclosures affect the families that lost their homes, but they affect neighborhoods and communities. While HUD continues its efforts to help homeowners remain in their homes, through waiver of its regulation on property flipping, HUD seeks to help stabilize neighborhoods and communities.

HUD undertook similar waiver action in a narrower context in 2009, regarding HUD's Neighborhood Stabilization Program (NSP). NSP, a temporary program authorized by the Housing and Economic Recovery Act 2008 (Pub. L. 110-289, approved July 30, 2008), was established for the purpose of stabilizing communities that have suffered from foreclosures and abandonment, by allocating funds through a formula to States and units of general local government, for the purchase and redevelopment of foreclosed and abandoned homes and residential properties. HUD's waiver of its regulation on property flipping for NSP removed an impediment to the purchase of affordable homes that had been rehabilitated and sold under this program. With the home foreclosure rate remaining high across the nation, HUD has determined that a temporary waiver of this regulation on a nationwide basis, subject to certain conditions, may contribute to stabilizing real estate prices and neighborhoods that have been heavily impacted by foreclosures. The waiver of the regulation may facilitate the sale and occupancy of foreclosed homes that have been rehabilitated by making the mortgages of such homes eligible for FHA mortgage

insurance. Again, however, while the waiver is granted for the purpose of stimulating rehabilitation of foreclosed and abandoned homes, the waiver is applicable to all properties being resold within the 90-day period after prior acquisition. The waiver is not limited to the resale of foreclosed properties.

**II. Eligibility for Waiver of 24 CFR 203.37a(b)(2)**

*To be eligible for the waiver of the Property Flipping Rule, an FHA-approved mortgagee must meet the following conditions:*

1. All transactions must be arms-length, with no identity of interest between the buyer and seller or other parties participating in the sales transaction. Some ways that the lender can ensure that there is no inappropriate collusion or agreement between parties, are to assess and determine the following:

- a. The seller holds title to the property;
- b. Limited liability companies, corporations, or trusts that are serving as sellers were established and are operated in accordance with applicable state and federal law;
- c. No pattern of previous flipping activity exists for the subject property as evidenced by multiple title transfers within a 12 month time frame (chain of title information for the subject property can be found in the appraisal report);
- d. The property was marketed openly and fairly, through a multiple listing service (MLS), auction, for sale by owner offering, or developer marketing (any sales contracts that refer to an "assignment of contract of sale," which represents a special arrangement between seller and buyer may be a red flag).

2. In cases in which the sales of the property is greater than 20 percent above the seller's acquisition cost, an FHA-approved mortgagee is eligible for the waiver only if, the mortgagee:

- a. Justifies the increase in value by retaining in the loan file supporting documentation and/or a second appraisal, which verifies that the seller has completed sufficient legitimate renovation, repair, and rehabilitation work on the subject property to substantiate the increase in value or, in cases where no such work is performed, the appraiser provides appropriate explanation of the increase in property value since the prior title transfer; and
- b. Orders a property inspection and provides the inspection report to the purchaser before closing. The mortgagee may charge the borrower for this inspection. The use of FHA-approved inspectors or 203(k) consultants is not

required. The inspector must have no interest in the property or relationship with the seller, and must not receive compensation for the inspection for any party other than the mortgagee. Additionally, the inspector may not: compensate anyone for the referral of the inspection; receive any compensation for referring or recommending contractors to perform any repairs recommended by the inspection; or be involved with performing any repairs recommended by the inspection. At a minimum, the inspection must include:

- i. The property structure, including the foundation, floor, ceiling, walls and roof;
- ii. The exterior, including siding, doors, windows, appurtenant structures such as decks and balconies, walkways and driveways.
- iii. The roofing, plumbing systems, electrical systems, heating and air conditioning systems;
- iv. All interiors; and
- v. All insulation and ventilation systems, as well as fireplaces and solid fuel-burning appliances.

3. Only forward mortgages are eligible for the waiver. Mortgages insured under HUD's HECM program are ineligible for the waiver.

### III. Compliance With the Paperwork Reduction Act

The information collection requirements applicable to this waiver have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB Control No. 2502–0059. In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number.

### IV. Period of Waiver Eligibility

This waiver announced by this notice became effective February 1, 2010, and shall expire for all sales contract entered into after February 1, 2011, unless extended or withdrawn by HUD. By notice, HUD shall notify the public of any extension or withdrawal of this waiver. If as a result of this waiver, there is a significant increase in defaults on FHA-insured mortgages and an increase in mortgage insurance claims that are attributable to mortgages insured as a result of exercise of this waiver authority, HUD may withdraw this waiver immediately.

### V. Solicitation of Public Comments

HUD welcomes comments on the conditions specified in this notice for eligibility for waiver of its regulation on property flipping. As stated in the Summary, comments will be taken into consideration in determining whether any modifications should be made to the waiver eligibility conditions.

Dated: May 12, 2010.

**David H. Stevens,**

*Assistant Secretary for Housing—Federal Housing Commissioner.*

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5375–N–19]

### Federal Property Suitable as Facilities To Assist the Homeless

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

**FOR FURTHER INFORMATION CONTACT:**

Kathy Ezzell, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7266, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

**SUPPLEMENTARY INFORMATION:** In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless v. Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/

unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for "off-site use only" recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Theresa Rita, Division of Property Management, Program Support Center, HHS, room 5B–17, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for