

Health and Human Services considers acceptable and reasonable for protection against the hazards of fire and which the borrower agrees to install.

(3) For the purposes of this definition, the terms "nursing home" and "intermediate care facility" shall include those facilities designated as skilled nursing facilities or intermediate care facilities by the Department of Health and Human Services.

(d) "Fire safety loan" means any form of secured or unsecured obligation determined by the Commissioner to be eligible for insurance under this subpart and, in the case of a board and care home, made with respect to such a home located in a State which the Secretary has determined is in compliance with the provisions of section 1616(e) of the Social Security Act.

9. In § 232.505, paragraph (b) is revised and the OMB control number is added to the end of the section to read as follows:

§ 232.505 Application and application fee.

(b) *Filing of application.* An application for insurance of fire safety loan for a nursing home, intermediate care facility or board and care home shall be submitted on an approved HUD form by an approved lender and by the owners of the project through the local HUD office.

(Information collection requirement approved by the Office of Management and Budget under Control No. 2502-0029)

10. Section 232.615 is amended by designating the present text as paragraph (a), and by adding a new paragraph (b), to read as follows:

§ 232.615 Eligible borrowers.

(b) Also eligible as a borrower shall be a profit or non-profit entity which owns a board and care home for which HUD has determined that the installation of fire safety equipment is approvable under the definition contained in § 232.500(c).

Dated: September 9, 1985.

Janet Hale,
Acting General Deputy Assistant Secretary
for Housing—Deputy Federal Housing
Commissioner.

[FR Doc. 85-22121 Filed 9-13-85; 8:45 am]

BILLING CODE 4210-27-M

Government National Mortgage Association

24 CFR Part 300

[Docket No. N-85-1550; FR-2121]

List of GNMA Attorneys-in-Fact

AGENCY: Government National Mortgage Association, HUD.

ACTION: Rule-related notice.

SUMMARY: This document updates the current list of persons appointed attorneys-in-fact by the Government National Mortgage Association (GNMA). Attorneys-in-fact are authorized to act for GNMA by executing documents in its name in conjunction with servicing GNMA's mortgage purchase programs. These appointments assist GNMA in carrying out its responsibilities under the National Housing Act.

EFFECTIVE DATE: September 16, 1985.

FOR FURTHER INFORMATION CONTACT: John Maxim, Associate General Counsel, Insured Housing and Finance, Office of the General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW Washington, DC 20410. Telephone (202) 755-6274. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: The Government National Mortgage Association (GNMA) periodically approves staff members of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Mortgage Corporation (Freddie Mac) to be delegated signatory authority to act in GNMA's behalf as attorneys-in-fact.

Until recently, lists of persons appointed to act have appeared in the Code of Federal Regulations (see 24 CFR 300.11(c) and (d), 1983 edition). In related documents published on August 12, 1983 (see 48 FR 36572, 36573) GNMA announced that it was removing these lists from the CFR, changing the procedure of announcing appointments to a notice document, and publishing a complete list of persons currently appointed to act as attorneys-in-fact. The rule removing the lists from the CFR, as well as the complete list of attorneys-in-fact, was effective on October 11, 1983. Additional changes to the list of persons appointed attorney-in-fact were published on December 29, 1983 (see 48 FR 57371), May 29, 1984 (49 FR 22278), August 27, 1984 (49 FR 33872), and on November 15, 1984 (49 FR 45128).

This notice today announces changes to the list of persons authorized to act as attorneys-in-fact. The changes include additions to and deletions from the Federal National Mortgage Association

list. To enhance the usability of these notices, the Department has decided to republish the entire list of attorneys-in-fact each time changes are made.

Accordingly, the following lists represent all persons currently appointed as attorneys-in-fact delegated signatory authority to act in GNMA's behalf:

I. Staff Members of the Federal National Mortgage Association, a Government-Sponsored Private Corporation, Appointed Attorneys-in-Fact

Name	Region
Leo E. Abaeg	Los Angeles, CA
Robert E. Allen	Los Angeles, CA
Angelina P. Allewa	Philadelphia, PA
Ellen W. Allison	Atlanta, GA
Pam Andrus	Los Angeles, CA
David P. Antczak	Chicago, IL
Victoria L. Arrington	Chicago, IL
Glenn T. Austin, Jr.	Atlanta, GA
J.J. Bacchus	Atlanta, GA
Irene S. Baggio	Philadelphia, PA
Darlene Bagley	Atlanta, GA
Susan L. Bale	Los Angeles, CA
Lynne Ballow	Atlanta, GA
J.C. Bellinger	Atlanta, GA
J.M. Benavides	Dallas, TX
Frances E. Bennett	Atlanta, GA
James H. Benson	Los Angeles, CA
E.N. Biggerstaff	Atlanta, GA
James R. Blakley	Los Angeles, CA
Norman T. Bolas	Los Angeles, CA
W.R. Bowen	Los Angeles, CA
W. James Bradley	Washington, D.C.
Stephen M. Brent	Los Angeles, CA
Joseph E. Brody	Chicago, IL
Craig J. Bromann	Chicago, IL
Larry W. Brown	Dallas, TX
Rosemary M. Brown	Washington, D.C.
Patricia L. Burgess	Atlanta, GA
Burleigh O. Burshem	Washington, D.C.
Rena L. Busby	Los Angeles, CA
J.L. Busselle	Dallas, TX
Roland B. Bynum	Los Angeles, CA
David Byrd	Atlanta, GA
Donna M. Cabrera	Los Angeles, CA
Dennis G. Campbell	Philadelphia, PA
E.P. Carr	Atlanta, GA
Loretta Casey	Philadelphia, PA
James S. Cash	Atlanta, GA
Robert A. Chambers	Atlanta, GA
Heinrich F. Charles	Los Angeles, CA
Patricia R. Charrier	Philadelphia, PA
Mary Churchwell	Dallas, TX
Russell B. Clifton	Washington, D.C.
John M. Conn	Washington, D.C.
Vincent Coletti, II	Philadelphia, PA
Betty Cook	Los Angeles, CA
Diane E. Cozad	Los Angeles, CA
Jean V. Cunliff	Chicago, IL
Edward F. Czubernat	Chicago, IL
Nitin J. Dave	Atlanta, GA
John C. Diebel	Chicago, IL
Edward Dodson	Philadelphia, PA
James E. Domenico	Chicago, IL
Lawrence J. Dondoro, Jr.	Philadelphia, PA
Elizabeth A. Downing	Los Angeles, CA
Samuel A. Duca	Philadelphia, PA
Wandra Durham	Atlanta, GA
J. Ellis Dykes	Atlanta, GA
Joseph R. Elred	Philadelphia, PA
Julietta England	Los Angeles, CA
David J. Evans	Atlanta, GA
R. Douglas Ezzell	Atlanta, GA
Leon Fine	Philadelphia, PA
Pamela K. Fite	Atlanta, GA
Carlton T. Foster, Jr.	Atlanta, GA
Robert R. Foster	Philadelphia, PA

Jimmy L. Callahan
Hettie D. Gates
Thomas J. Gay
Robert R. Glinski
James D. Grady, Jr.
John J. Hagerty
Ann B. Hamilton
Philip E. Harrington
Mark S. Haney
Robert E. Haren
Charles W. Harvey, Jr.
Ronald W. Harwig
John R. Hayes
Robert J. Hearn
B.J. Hendryx
C.W. Hapinstall
J.W. Hester, Jr.
JoAnne Holbert
R.R. Holst
D. Howard
Carmen I. Huertas
Jeanne Hunter
Robert A. Hunter
Louise E. Isabel
Stuart J. Jaffee
William S. Jones
Shelley J. Kauzlaric
Arthurine C. Kent
Carol King
Thomas L. Kinney
John H. Kline, Jr.
William Jackson
Denise Lee
Alfredo S. Loyola
Robert J. Mahn
Elizabeth Mahoney
Noel J. Mangin
P. Jack Maniscalco
Renny A. McKenzie
Susan McMahon
Camillo Melchiorre
Allen P. Miller
Doris A. Morrow
Frederick W. Mowatt
Charleen N. Munson
Randolph C. Nail, Jr.
Harbir S. Narang
Vincent H. Nelson
Brenda J. Newbill
Phillip R. Nichols, Jr.
James W. Noack
Robert D. O'Connell
B.J. Odom
Zach Oppenheimer
Bentley C. Paley, Jr.
Leslie A. Parsons
Dale L. Pea
Norman H. Peterson
Kathryn M. Phillips
Robert G. Pike
M. Kay Pollak
Douglass M. Porter
Norman M. Reid
Clotelia S. Riddell
A.E. Rodenberger
Samuel D. Russell
Tim J. Ryan
E.L. Schreiber
Frank L. Scrivano
R.L. Shanteau
Patricia L. Shaw
M. Faith Smith
Samuel M. Smith, III
Susan T. Smith
Mary Lou Stellman
Roger Stewart
Robert F. Sumbry
T.J. Swanson, Jr.
Robert N. Tanabe
Leta L. Terrell
Geri C. Thomas
Jimmie L. Thomas
William J. Tierney
Joseph D. Trombello
Carmeleta Turner

Atlanta, GA
Atlanta, GA
Dallas, TX
Philadelphia, PA
Philadelphia, PA
Philadelphia, PA
Chicago, IL
Los Angeles, CA
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Washington, D.C.
Atlanta, GA
Atlanta, GA
Los Angeles, CA
Dallas, TX
Los Angeles, CA
Dallas, TX
Chicago, IL
Dallas, TX

Ruth C. Turner
J.H. Van House
Lewis A. Vidmar
Mary E. Voight
Esther O. Walder
Erinda C. Weaver
Nancy L. Webster
Edward W. Wendell
James H. Whitehead
Sherry L. Williamson
John Wilson
S.L. Wisdom
W.E. Yeager
Dick A. Yockey
Barbara Zwijacz

Los Angeles, CA
Atlanta, GA
Dallas, TX
Los Angeles, CA
Philadelphia, PA
Los Angeles, CA
Chicago, IL
Chicago, IL
Atlanta, GA
Atlanta, GA
Philadelphia, PA
Dallas, TX
Atlanta, GA
Los Angeles, CA
Chicago, IL

II. Staff Members of the Federal Home Loan Mortgage Corporation, Created Under the Laws of the United States, Appointed Attorneys-in-Fact

Name	Region
William T. Bings	Washington, D.C.
Philip R. Brinkerhoff	Washington, D.C.
Jerry Brooks	Atlanta, GA
Michael Coffey	Dallas, TX
Douglas R. Cottrell	Atlanta, GA
Kenneth Coulter	Los Angeles, CA
George E. Delgado	Arlington, VA
James L. Garrison	Arlington, VA
C. Gordon Gray	Chicago, IL
Ken Halterman	Dallas, TX
Philip N. Harrington	Washington, D.C.
Carl Hillis	Dallas, TX
John Horseman, Sr.	Washington, D.C.
Victor H. Indiek	Washington, D.C.
David S. Latimore	Atlanta, GA
Leon L. Linkroum	Los Angeles, CA
John E. Lott	Chicago, IL
Peter R. McNulty	Arlington, VA
J. Michael Materie	Atlanta, GA
Walter P. Moenning, Jr.	Chicago, IL
Ronald Morck	Atlanta, GA
Randall M. Nay	Dallas, TX
Jerry C. Nelson	Dallas, TX
Robert K. Ostengaard	Los Angeles, CA
Paul Quinn	Denver, CO
F. Michael Saib	Arlington, VA
Kenneth J. Sandin	Atlanta, GA
Fred Schwartz	Chicago, IL
Stu Strand	Los Angeles, CA
Ronald D. Struck	Washington, D.C.
Melvin L. Taylor	Seattle, WA
William R. Thomas, Jr.	Dallas, TX
Glenn Vaupel	Los Angeles, CA
William J. Verant	Los Angeles, CA
Edward Voss	Chicago, IL
Clifford A. Walters	Chicago, IL

Dated: September 9, 1985.

Louis C. Gasper,

Executive Vice President, Government National Mortgage Association.

[FR Doc. 85-22122 Filed 9-13-85; 8:45 am]

BILLING CODE 4210-32-M

Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-85-1134; FR-1822]

Community Development Block Grants; Secretary's Fund—Insular Areas

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

ACTION: Final rule.

SUMMARY: This final rule updates and simplifies the general regulations applicable to all Secretary's Discretionary Fund Programs and the sections specifically related to Insular Area applicants for grants under the Secretary's Fund within the Community Development Block Grant (CDBG) program.

EFFECTIVE DATE: October 21, 1985.

FOR FURTHER INFORMATION CONTACT: Hazel P. Braxton or Leroy P. Gonnella, Office of Program Policy Development, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-6092. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: On August 7, 1984, the Department published a proposed rule revising provisions of the CDBG program related to Insular Areas, 49 FR 31446. HUD proposed to revise 24 CFR 570.400 and 570.405. The former section contains general provisions applicable to Subpart E of Part 570 (the Secretary's Fund), while the latter contains the provisions specifically applicable to the Insular Areas Program. The proposed rule removed certain program requirements that are no longer required by statute, made technical changes necessitated by changes to Part 570 published on September 23, 1983 (48 FR 43538), and also revised regulations related to the use of data from the Census Bureau; standards to be used in HUD review of applications; the criteria by which program amendments will be approved; the application period; permission to incur costs before approval of the application in hardship cases; threshold requirements for funding; and conditional grant approval.

No public comments were filed in response to the Notice of Proposed Rulemaking. Accordingly, the proposed rule will be adopted as final, with only the following technical revisions:

1. Under proposed § 570.400(c)(iii), applications for assistance under Subpart E would be reviewed by HUD to ensure that "required certifications have been properly executed". This provision will be revised to require that the "required certifications have been included in the application". This revision conforms the rule provision with the actual procedures that are, and have been, employed under the program.

2. Application and performance reporting requirements are set out under proposed § 570.405(e). Paragraph (e)(3) requires a recipient to submit an annual performance report of progress made on

previously funded grants. The report must contain a narrative description of a recipient's progress related to such matters as its activity completion rate, changes in scheduling, and funding allocations among projects. This provision will be revised to also require a comparison between the funds allocated to a recipient and funds obligated by the recipient. This requirement constitutes a logical extension of the informational requests already in the rule. While compliance with this requirement will not require any significant additional expenditure of resources by recipients, compliance will significantly assist both HUD and the recipient in assessing the recipient's progress.

3. Subpart O, made applicable to this regulation by § 570.400(a), authorizes reviews of the grantees' performance, and contains provisions for remedial actions and sanctions based on such reviews. Since the provisions in Subpart O are specifically written in terms of the entitlement, small cities and action grant programs, comparable provisions have been added to this regulation at § 570.400 (f) and (g).

Finally, an amendment to the Housing and Community Development Act of 1974 contained in the Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98-181 (approved November 1983), added section 104(j) which provides that: "Each grantee shall provide for reasonable benefits to any person involuntarily and permanently displaced as a result of the use of assistance received under this title to acquire or substantially rehabilitate property." (The provision mandates the benefits to such displacees where the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 does not apply.) Until a final regulation implementing section 104(j) is published for effect, the requirement will be imposed through a special contract condition in the grant agreements.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, at the above address.

This rule does not constitute a major rule as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the

economy of \$100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. For Insular Areas, there are fewer than 10 eligible applicants. The rules will simplify and reduce the requirements of applications. The other grantees under the program are relatively large entities and the changes made here should not have any significant economic impact on them. Additionally, in making grants, the program provides ample funds to cover those expenditures related to the administrative costs of the program.

This rule was listed as item number 176 in the Department's most recent Semiannual Agenda of Regulations published on April 29, 1985 under Executive Order 12291 and the Regulatory Flexibility Act, (50 FR 17286 at page 17327).

The Catalog of Federal Domestic Assistance program number and title is 14.225-Secretary's Discretionary Fund/Territories Program.

List of Subjects in 24 CFR Part 570

Community development block grant, Grant programs: housing and community development, Loan programs: housing and community development, Low and moderate income housing, New communities, Pockets of poverty, Small cities.

Accordingly, the Department amends 24 CFR Part 570 as follows:

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

1. The authority citation for Part 570 is revised to read as set forth below and any authority citation following any section in Part 570 is removed:

Authority: Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301-5321); Sec. 7(d), Department of HUD Act (42 U.S.C. 5353(d)).

2. Section 570.400 is revised to read as follows:

§ 570.400 General.

(a) *Applicability.* The policies and procedures set forth in Subparts A, C, J, K, and O of this part shall apply to this

subpart, except to the extent that they are specifically modified or augmented by the contents of this subpart, including specified exemptions described herein. The HUD Environmental Review Procedures contained in 24 CFR Part 58 also apply to this subpart, unless otherwise specifically provided herein.

(b) *Data.* Wherever data are used in this subpart for selecting applicants for assistance or for determining grant amounts, the source of such data shall be the most recent information available from the United States Bureau of the Census which is referable to the same point or period of time.

(c) *Review of applications for discretionary assistance.* (1) *Review Components.* An application for assistance under this subpart shall be reviewed by HUD to ensure that: (i) The application is postmarked or received on or before any final date established by HUD; (ii) The application is complete; (iii) required certifications have been included in the application; and (iv) The application meets the specific program requirements listed in the **Federal Register Notice** published in connection with a competition for funding, and any other specific requirements listed under this subpart for each of the programs.

(2) *Timing and Review.* HUD is not required by the Act to review and approve an application for assistance or a contract proposal within any specified time period. However, HUD will attempt to complete its review of any application/proposal within 75 days.

(3) *Notification to applicant/proposer.* HUD will notify the applicant/proposer in writing that the applicant/proposal has been approved, partially approved, or disapproved. If an application/proposal is partially approved or disapproved, the applicant/proposer will be informed of the basis for HUD's decision. HUD may make conditional approvals under section § 570.304(d).

(d) *Program amendments.* (1) Recipients shall request prior written HUD approval for all program amendments involving changes in the scope or the location of approved activities.

(2) Any program amendments, whether or not they require HUD approval, must be fully documented in the recipient's records.

(e) *Performance reports.* Any performance report required of a discretionary assistance recipient shall be submitted in the form specified in this subpart, in the award document, or (if the report relates to a specific competition for an assistance award) in a form specified in a Notice published in the **Federal Register**.

(f) *Performance reviews and findings.* HUD may review the recipient's performance in carrying out the activities for which assistance is provided in a timely manner and in accordance with its approved application, all applicable requirements of this part and the terms of the assistance agreement. Findings of performance deficiencies may be cause for appropriate corrective and remedial actions under § 570.910.

(g) *Funding sanctions.* Following notice and opportunity for informal consultation, HUD may withhold, reduce or terminate the assistance where any corrective or remedial actions taken under § 570.910 fail to remedy a recipient's performance deficiencies, and the deficiencies are sufficiently substantial, in the judgment of HUD, to warrant sanctions.

3. § 570.405 is revised to read as follows:

§ 570.405 The insular areas.

(a) *Eligible applicants.* Eligible applicants are Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(b) *Threshold requirements.* HUD shall review each grantee's progress on outstanding grants made under this section based on the grantee's performance report, the timeliness of close-outs and compliance with fund management requirements and pertinent regulations, taking into consideration the size of the grant and the degree and complexity of the program. If HUD determines upon such review that the applicant does not have the capacity effectively to administer a new grant, or a portion of a new grant, in addition to grants currently under administration, the applicant shall not be invited to submit an application for the current year's funding.

(c) *Previous audit findings and outstanding monetary obligations.* HUD shall not accept for review an application from an applicant that has either an outstanding audit finding for any HUD program, or an outstanding monetary obligation to HUD that is in arrears, or for which a repayment schedule has not been established and agreed to. The Field Office manager may waive this restriction if he or she finds that the applicant has made a good faith effort to clear the audit. In no instance, however, shall a waiver be provided when funds are due HUD, unless a satisfactory arrangement for repayment of the debt has been made and payments are current.

(d) *Criteria for funding.* The Secretary shall establish, for each fiscal year, an amount for which eligible applicants may apply. Grant amounts will be based on population of the applicant and its performance in previous years. In determining performance, HUD will consider program achievements and the applicant's effectiveness in using program funds. Effectiveness in using program funds shall be measured by reviewing audit, monitoring and performance reports.

(e) *Application and performance reporting.* Application and performance reporting requirements are as follows:

(1) Applicants must submit applications within 90 days of the notification of the grant amount from HUD.

(2) Applicants must meet the application requirements in § 570.430 relating to small cities single purpose grants.

(3) At a time determined by the Field Office, grant recipients shall submit an annual performance report of progress made on previously funded grants. The status report shall be in narrative form addressing three areas:

(i) *Progress:* Progress in completing activities, the work remaining, changes in the implementation schedule, a breakdown of funds expended on each approved project and a comparison between the amount allocated to the recipient and amounts obligated by the recipient;

(ii) *Grantee assessment:* A description of the effectiveness of funded activities in meeting the recipient's community development needs; and

(iii) *Environment:* A status report on each of the following:

(A) The environmental assessments and environmental impact statements prepared by the recipient;

(B) Action taken in compliance with other environmental obligations;

(C) For exempt activities, compliance with the conditions of 24 CFR 58.34; and

(D) If appropriate, environmental reviews of emergency projects under 24 CFR 58.33.

(f) *Costs incurred by the applicant.* (1) Notwithstanding any other provision of this part, HUD will not reimburse or recognize any costs incurred by an applicant before submission of the application to HUD.

(2) Normally, HUD will not reimburse or recognize costs incurred before HUD approval of the application for funding. However, under unusual circumstances, the Field office manager may consider and conditionally approve written requests to recognize and reimburse costs that will be incurred after submission of the application but before

it is approved where failure to do so would impose undue or unreasonable hardship on the applicant. Conditional approvals will be made only before the costs are incurred and where the conditions for release of funds have been met in accordance with 24 CFR 58.22, and with the understanding that HUD has no obligation whatsoever to approve the application or to reimburse the applicant should the application be disapproved.

(g) *Criteria for conditional approval.* HUD may approve a grant subject to specified conditions. In any such case, the obligation and utilization of funds may be restricted. The reasons for the conditional approval and the actions necessary to remove the conditions shall be specified. Failure of the applicant to satisfy the conditions may result in a termination of the grant. A conditional approval may be granted under any of the following circumstances:

(1) When local environmental reviews under 24 CFR Part 58 have not yet been completed;

(2) To ensure that actual provision of other resources required to complete the proposed activities will be available within a reasonable period of time;

(3) To ensure that a project can be completed within its estimated costs;

(4) Where the grantee is required to satisfy an outstanding debt due to HUD under a payment plan executed between the grantee and the Department;

(5) Pending resolution of problems related to specific projects or the capability of the grantee to obtain resources needed to carry out, operate or maintain the project; or

(6) Pending approval of site and neighborhood standards for proposed housing projects.

(h) *Citizen participation.* (1) The applicant shall provide for appropriate citizen participation in the application and amendment process. The applicant must, at least, do each of the following:

(i) Furnish citizens with information concerning the amount of funds available for community development and housing activities and the range of activities that may be undertaken, including the estimated amount proposed to be used for activities that will benefit persons of low and moderate income, and the plans of the grantee for minimizing displacement of persons as a result of activities assisted with such funds and to assist persons actually displaced;

(ii) Hold one or more public hearings (scheduled at convenient times and places) to obtain the views of citizens on community development and housing needs;

(iii) Develop and publish or post the community development statement in such a manner as to afford affected citizens an opportunity to examine its contents and to submit comments;

(iv) Afford citizens an opportunity to review and comment on the applicant's performance under any community development block grant.

(2) Before submitting the application to HUD, the applicant shall certify that it has (i) met the requirements of paragraph (h)(1) of this section; (ii) considered any comments and views expressed by citizens; and (iii) if appropriate, modified the application accordingly and made the modified application available to citizens.

Dated: September 9, 1985.

Alfred C. Moran,

Assistant Secretary for Community Planning and Development.

[FR Doc. 85-22123 Filed 9-13-85; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 169

[DoD Directive 4100.15]

Commercial Activities Program

AGENCY: Department of Defense.

ACTION: Final Rule.

SUMMARY: The Department of Defense revised its rules regarding the Commercial Activities Program to incorporate substantive changes to Part 169 required by Office of Management and Budget (OMB) Circular A-76, "Performance of Commercial Activities," August 3, 1983. The Department of Defense reaffirms the Government's general policy of reliance on the private sector for commercial activities while recognizing that Government personnel must perform intrinsic governmental functions and must consider cost effectiveness.

EFFECTIVE DATE: August 12, 1985.

FOR FURTHER INFORMATION CONTACT:

Mr. Douglas B. Hansen, Office of the Assistant Secretary of Defense (Acquisition and Logistics), Installation Assistance, Pentagon, Washington, DC 20301-8000. Telephone: 202-325-0537.

SUPPLEMENTARY INFORMATION: In FR Doc. 85-10688, appearing in the Federal Register (50 FR 18888) on May 3, 1985, the Office of the Secretary of Defense published Part 169 as a proposed rule to provide more definitive guidelines to ensure consistency and equity to all parties in its implementation. The Office

of the Secretary of Defense previously published Part 169 in FR Docs. 67-10186 (32 FR 12607) August 31, 1967; 69-6119 (34 FR 14184) May 23, 1969; 71-10943 (36 FR 14184) July 31, 1971; and 80-8173 (45 FR 17138) March 18, 1980. Some comments and editorial changes received from the private sector and internal DoD Components were incorporated into the final rule.

List of Subjects in 32 CFR Part 169

Armed forces, Government procurement.

Accordingly, 32 CFR Chapter I, is amended by revising Part 169, reading as follows:

PART 169—COMMERCIAL ACTIVITIES PROGRAM

Sec.

- 169.1 Purpose.
- 169.2 Applicability and scope.
- 169.3 Definitions.
- 169.4 Policy.
- 169.5 Responsibilities.

Authority: 5 U.S.C. 301 and 552 and Pub. L. 93-400.

§ 169.1 Purpose.

This part reissues OMB Circular A-76. It also updates DoD policies and assigns responsibilities for commercial activities (CAs) as required by OMB Circular A-76.

§ 169.2 Applicability and scope.

(a) This part applies to the Office of the Secretary of Defense (OSD), the Military Departments, and the Defense Agencies (hereafter referred to collectively as "DoD Components").

(b) Encompasses DoD policy for CAs in the United States, its territories and possessions, the District of Columbia, and the Commonwealth of Puerto Rico.

(c) Is not mandatory for CAs staffed solely with civilian personnel paid by nonappropriated funds, such as military exchanges. However, its provisions are mandatory for CAs when they are staffed partially with civilian personnel paid by or reimbursed from appropriated funds, such as libraries, open messes, and other morale, welfare, and recreation (MWR) activities. When related installation support functions are being cost-compared under a single solicitation, a DoD Component may decide that it is practical to include activities staffed solely with civilian personnel paid by nonappropriated funds.

(d) This part does not:

(1) Apply to governmental functions as defined in § 169.3.

(2) Apply when contrary to law, executive orders, or any treaty or international agreement.

(3) Apply in times of a declared war or military mobilization.

(4) Provide authority to enter into contracts.

(5) Apply to the conduct of research and development, except for severable in-house CAs in support of research and development, such as those listed in enclosure 3 of DoD Instruction 4100.33.¹

(6) Justify conversion to contract solely to avoid personnel ceilings or salary limitations.

(7) Authorize contracts that establish an employer-employee relationship between the Department of Defense and contractor employees as described in Federal Acquisition Regulation (FAR) 37.104.

§ 169.3 Definitions.

Commercial Activity Review. The process of evaluating CAs for the purpose of determining whether or not a cost comparison will be conducted.

Commercial Source. A business or other non-Federal activity located in the United States, its territories and possessions, the District of Columbia, or the Commonwealth of Puerto Rico that provides a commercial product or service.

Conversion to Contract. The changeover of a CA from performance by DoD personnel to performance under contract by a commercial source.

Conversion to In-House. The changeover of a CA from performance under contract to performance by DoD personnel.

Cost Comparison. The process of developing an estimate of the cost of performance of a CA by DoD employees and comparing it, in accordance with the requirements in DoD Instruction 4100.33 to the cost to the Government for contract performance of the CA.

Directly Affected Parties. DoD employees and their representative organizations and bidders or offerors on the solicitation.

Displaced DoD Employee. Any DoD employee affected by conversion to contract operation (including such actions as job elimination, grade reduction, or reduction in rank). It includes both employees in the function converted to contract and employees outside the function who are affected adversely by conversion through reassignment or the exercise of bumping or retreat rights.

DoD Commercial Activity (CA). An activity that provides a product or service obtainable (or obtained) from a

¹ Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120. ATTN: Code 301.