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with this section, HUD may, in addition to imposing any other sanctions provided for under this part, require the recipient to discontinue the use of escrow accounts, in whole or in part.

[55 FR 32369, Aug. 8, 1990]

§ 570.512 [Reserved]

§ 570.513 Lump sum drawdown for financing of property rehabilitation activities.

Subject to the conditions prescribed in this section, recipients may draw funds from the letter of credit in a lump sum to establish a rehabilitation fund in one or more private financial institutions for the purpose of financing the rehabilitation of privately owned properties. The fund may be used in conjunction with various rehabilitation financing techniques, including loans, interest subsidies, loan guarantees, loan reserves, or such other uses as may be approved by HUD consistent with the objectives of this section. The fund may also be used for making grants, but only for the purpose of leveraging non-CDBG funds for the rehabilitation of the same property.

(a) *Limitation on drawdown of grant funds.* (1) The funds that a recipient deposits to a rehabilitation fund shall not exceed the grant amount that the recipient reasonably expects will be required, together with anticipated program income from interest and loan repayments, for the rehabilitation activities during the period specified in the agreement to undertake activities, based on either:

(i) Prior level of rehabilitation activity; or

(ii) Rehabilitation staffing and management capacity during the period specified in the agreement to undertake activities.

(2) No grant funds may be deposited under this section solely for the purpose of investment, notwithstanding that the interest or other income is to be used for the rehabilitation activities.

(3) The recipient's rehabilitation program administrative costs and the administrative costs of the financial institution may not be funded through lump sum drawdown. Such costs must be paid from periodic letter of credit

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withdrawals in accordance with standard procedures or from program income, other than program income generated by the lump sum distribution.

(b) *Standards to be met.* The following standards shall apply to all lump sum drawdowns of CDBG funds for rehabilitation:

(1) *Eligible rehabilitation activities.* The rehabilitation fund shall be used to finance the rehabilitation of privately owned properties eligible under the general policies in § 570.200 and the specific provisions of either § 570.202, including the acquisition of properties for rehabilitation, or § 570.203.

(2) *Requirements for agreement.* The recipient shall execute a written agreement with one or more private financial institutions for the operation of the rehabilitation fund. The agreement shall specify the obligations and responsibilities of the parties, the terms and conditions on which CDBG funds are to be deposited and used or returned, the anticipated level of rehabilitation activities by the financial institution, the rate of interest and other benefits to be provided by the financial institution in return for the lump sum deposit, and such other terms as are necessary for compliance with the provisions of this section. Upon execution of the agreement, a copy must be provided to the HUD field office for its record and use in monitoring. Any modifications made during the term of the agreement must also be provided to HUD.

(3) *Period to undertake activities.* The agreement must provide that the rehabilitation fund may only be used for authorized activities during a period of no more than two years. The lump sum deposit shall be made only after the agreement is fully executed.

(4) *Time limit on use of deposited funds.* Use of the deposited funds for rehabilitation financing assistance must start (e.g., first loan must be made, subsidized or guaranteed) within 45 days of the deposit. In addition, substantial disbursements from the fund must occur within 180 days of the receipt of the deposit. (Where CDBG funds are used as a guarantee, the funds that must be substantially disbursed are the guaranteed funds.) For a recipient with an agreement specifying two years to

undertake activities, the disbursement of 25 percent of the fund (deposit plus any interest earned) within 180 days will be regarded as meeting this requirement. If a recipient with an agreement specifying two years to undertake activities determines that it has had substantial disbursement from the fund within the 180 days although it had not met this 25 percent threshold, the justification for the recipient's determination shall be included in the program file. Should use of deposited funds not start within 45 days, or substantial disbursement from such fund not occur within 180 days, the recipient may be required by HUD to return all or part of the deposited funds to the recipient's letter of credit.

(5) *Program activity.* Recipients shall review the level of program activity on a yearly basis. Where activity is substantially below that anticipated, program funds shall be returned to the recipient's letter of credit.

(6) *Termination of agreement.* In the case of substantial failure by a private financial institution to comply with the terms of a lump sum drawdown agreement, the recipient shall terminate its agreement, provide written justification for the action, withdraw all unobligated deposited funds from the private financial institution, and return the funds to the recipient's letter of credit.

(7) *Return of unused deposits.* At the end of the period specified in the agreement for undertaking activities, all unobligated deposited funds shall be returned to the recipient's letter of credit unless the recipient enters into a new agreement conforming to the requirements of this section. In addition, the recipient shall reserve the right to withdraw any unobligated deposited funds required by HUD in the exercise of corrective or remedial actions authorized under §570.910(b), §570.911, §570.912 or §570.913.

(8) *Rehabilitation loans made with non-CDBG funds.* If the deposited funds or program income derived from deposited funds are used to subsidize or guarantee repayment of rehabilitation loans made with non-CDBG funds, or to provide a supplemental loan or grant to the borrower of the non-CDBG funds, the rehabilitation activities are

considered to be CDBG-assisted activities subject to the requirements applicable to such activities, except that repayment of non-CDBG funds shall not be treated as program income.

(9) *Provision of consideration.* In consideration for the lump sum deposit by the recipient in a private financial institution, the deposit must result in appropriate benefits in support of the recipient's local rehabilitation program. Minimum requirements for such benefits are:

(i) Grantees shall require the financial institution to pay interest on the lump sum deposit.

(A) The interest rate paid by the financial institution shall be no more than three points below the rate on one year Treasury obligations at constant maturity.

(B) When an agreement sets a fixed interest rate for the entire term of the agreement, the rate should be based on the rate at the time the agreement is executed.

(C) The agreement may provide for an interest rate that would fluctuate periodically during the term of the agreement, but at no time shall the rate be established at more than three points below the rate on one year Treasury obligations at constant maturity.

(ii) In addition to the payment of interest, at least one of the following benefits must be provided by the financial institution:

(A) Leverage of the deposited funds so that the financial institution commits private funds for loans in the rehabilitation program in an amount substantially in excess of the amount of the lump sum deposit;

(B) Commitment of private funds by the financial institution for rehabilitation loans at below market interest rates, at higher than normal risk, or with longer than normal repayment periods; or

(C) Provision of administrative services in support of the rehabilitation program by the participating financial institution at no cost or at lower than actual cost.

(c) *Program income.* Interest earned on lump sum deposits and payments on loans made from such deposits are program income and, during the period of

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the agreement, shall be used for rehabilitation activities under the provisions of this section.

(d) *Outstanding findings.* Notwithstanding any other provision of this section, no recipient shall enter into a new agreement during any period of time in which an audit or monitoring finding on a previous lump sum draw-down agreement remains unresolved.

(e) *Prior notification.* The recipient shall provide the HUD field office with written notification of the amount of funds to be distributed to a private financial institution before distribution under the provisions of this section.

(f) *Recordkeeping requirements.* The recipient shall maintain in its files a copy of the written agreement and related documents establishing conformance with this section and concerning performance by a financial institution in accordance with the agreement.

Subpart K—Other Program Requirements

SOURCE: 53 FR 34456, Sept. 6, 1988, unless otherwise noted.

§ 570.600 General.

(a) This subpart K enumerates laws that the Secretary will treat as applicable to grants made under section 106 of the Act, other than grants to States made pursuant to section 106(d) of the Act, for purposes of the Secretary's determinations under section 104(e)(1) of the Act, including statutes expressly made applicable by the Act and certain other statutes and Executive Orders for which the Secretary has enforcement responsibility. This subpart K applies to grants made under the Insular areas program in § 570.405, with the exception of § 570.612. The absence of mention herein of any other statute for which the Secretary does not have direct enforcement responsibility is not intended to be taken as an indication that, in the Secretary's opinion, such statute or Executive Order is not applicable to activities assisted under the Act. For laws that the Secretary will treat as applicable to grants made to States under section 106(d) of the Act for purposes of the determination required to be made by the Secretary

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pursuant to section 104(e)(2) of the Act, see § 570.487.

(b) This subpart also sets forth certain additional program requirements which the Secretary has determined to be applicable to grants provided under the Act as a matter of administrative discretion.

(c) In addition to grants made pursuant to section 106(b) and 106(d)(2)(B) of the Act (subparts D and F, respectively), the requirements of this subpart K are applicable to grants made pursuant to sections 107 and 119 of the Act (subparts E and G, respectively), and to loans guaranteed pursuant to subpart M.

[53 FR 34456, Sept. 6, 1988, as amended at 61 FR 11477, Mar. 20, 1996]

§ 570.601 Public Law 88-352 and Public Law 90-284; affirmatively furthering fair housing; Executive Order 11063.

(a) The following requirements apply according to sections 104(b) and 107 of the Act:

(1) Public Law 88-352, which is title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), and implementing regulations in 24 CFR part 1.

(2) Public Law 90-284, which is the Fair Housing Act (42 U.S.C. 3601-3620). In accordance with the Fair Housing Act, the Secretary requires that grantees administer all programs and activities related to housing and community development in a manner to affirmatively further the policies of the Fair Housing Act. Furthermore, in accordance with section 104(b)(2) of the Act, for each community receiving a grant under subpart D of this part, the certification that the grantee will affirmatively further fair housing shall specifically require the grantee to assume the responsibility of fair housing planning by conducting an analysis to identify impediments to fair housing choice within its jurisdiction, taking appropriate actions to overcome the effects of any impediments identified through that analysis, and maintaining records reflecting the analysis and actions in this regard.

(b) Executive Order 11063, as amended by Executive Order 12259 (3 CFR, 1959-1963 Comp., p. 652; 3 CFR, 1980 Comp., p. 307) (Equal Opportunity in Housing),