

Federal Register

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Part VI

Department of Housing and Urban Development

Office of Assistant Secretary for
Community Planning and Development

Block Grants Program Provisions

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

**Office of Assistant Secretary for
Community Planning and
Development, Department of Housing
and Urban Development**

[24 CFR Part 570]

[Docket No. R-79-678]

**Community Development Block
Grants, Program Requirements for
Administration of Block Grant Funds
by Subrecipients and Program
Requirements for Disposition of Real
Property Under the Block Grant
Program.**

AGENCY: Department of Housing and
Urban Development.

ACTION: Proposed rulemaking.

SUMMARY: HUD is soliciting comments on this proposed rulemaking which adds to Subpart K of the regulations governing the community development block grant program under Title I of the Housing and Community Development Act of 1974, as amended. Section 570.612 sets forth program requirements governing the administration of block grant funds provided by HUD recipients directly to certain private entities as subrecipients for the undertaking of approved block grant program activities. Certain of the areas covered by the amendment include written agreements, compliance with OMB Circular A-102, audits and inspections, nondiscriminations, and conflict of interest.

In addition, § 570.613 sets forth requirements governing the disposition of real property acquired by any entity, public or private, with block grant assistance.

DATE: Comments due: September 1, 1979.

ADDRESS: Comments should be addressed to: Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, Room 5218, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: William Thomas, Office of Block Grant Assistance, Department of Housing and Urban Development, Washington, D.C. 20410, 202/755-6322.

SUPPLEMENTARY INFORMATION:

Background

Sections 570.204 authorized the provision of block grant funds by HUD recipients to certain eligible entities for activities designed to implement the

recipient's strategies for economic development and neighborhood revitalization. Eligible entities under § 570.204 are private nonprofit entities, neighborhood-based nonprofit organizations, Small Business Companies and local development corporations. In addition, § 570.202(c)(i) authorizes block grant assistance to profit and nonprofit private entities for acquisition of property for rehabilitation and for the rehabilitation of such property. Section 570.612 of this proposed rule sets forth standards and guidelines for the use and administration of block grant funds by these subrecipients. Section 570.613 sets forth guidelines for the disposition of real property under the block grant program.

Written Agreements

Paragraph (b) provides that subrecipients are required to execute a written agreement with the HUD recipient from which they receive funds. The paragraph sets forth the provisions that must be included in the agreement.

OMB Circular A-102

The Office of Management and Budget has issued Circular A-102, which contains uniform administrative requirements for grants-in-aid to State and local governments. Paragraph (c) provides that all subrecipients must comply with the requirements of Attachments A (Cash Deposits), B (Bonding and Insurance), C (Retention and Custodial Requirements for Records), E (Program Income), G (Standards for Grantee Financial Management Systems), N (Property Management Standards) and O (Procurement Standards) of OMB Circular A-102.

Reports and Information

Paragraph (d) requires that the subrecipients are to furnish HUD or the recipient, as requested, with various reports and information relating to the matters covered by this section.

Audits and Inspections

Paragraph (e) of § 570.612 requires that subrecipients make all records relating to block grant matters available to HUD, the Comptroller General, and the recipient.

HUD recipients are required by § 570.509 to schedule audits in connection with its own audit. Such audits shall include an audit relating to block grant funded activities carried out by subrecipients in conformance with the requirements of § 570.509 and the HUD audit guide.

Unearned Payments

Paragraph (f) of § 570.612 provides that unearned payments in the form of monetary advances to subrecipients may be suspended, terminated, or recaptured, if conditions or administrative requirements for the use of block grant funds imposed by HUD or the recipient are not accepted or not met.

Nondiscrimination

Paragraph (g) of § 570.612 states that all activities conducted with block grant funds by subrecipients are subject to requirements of the block grant program prohibiting discrimination.

Requirements of Other Laws

Paragraph (h)(1) of § 570.612 sets forth that block grant funded activities conducted by subrecipients are subject to other Federal statutes which are applicable to the block grant program.

Lobbying Prohibited

Paragraph (h)(2) of § 570.612 prohibits the use of block grant funds by subrecipients for publicity or propaganda purposes designed to support or defeat legislation pending before local, State or Federal governments.

**Use of Property and Ownership of
Facilities**

Paragraphs (h)(3) and (h)(4) of § 570.612 establish standards for the use of real property acquired with block grant funds and the ownership of facilities purchased with block grant funds by subrecipients.

Unless real property is acquired expressly for disposition purposes, it shall be used only for the purposes of the block grant program and may not be transferred without the concurrence of the recipient and HUD.

Facilities purchased or constructed with block grant funds must be operated in a nondiscriminatory manner for use by the general public. The charging of excessive fees for use of the facility which would have the effect of limiting use by lower-income persons is not permitted. If a facility is to be sold or transferred, the block grant investment shall be reimbursed to the recipient as program income to be used for eligible community development activities.

Disposition

Paragraph (h)(5) of § 570.612 specifies that subrecipients must follow the requirements of § 570.613 regarding the disposition of real property with block grant assistance.

Conflict of Interest

Section 570.612(h)(6) requires recipients to establish safeguards to prohibit individuals associated with subrecipients from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties. In some instances, persons who are subject to the conflict of interest provisions are members of subrecipients. Paragraph (h)(6) of § 570.612 provides that such persons may retain their membership in such entities provided that they do not have a direct financial interest in the entity or, if they advise or assist the entity in the use of block grant funds, that they may not receive compensation for the services provided.

Monitoring

Paragraph (i) of § 570.612 establishes requirements for the monitoring of subrecipients by the recipient. The recipient shall make an annual determination as to whether each subrecipient has complied with the requirements and conditions of the required written agreement and has a capacity to continue to use block grant funds.

HUD reserves the right, as a corrective and remedial action under § 570.910, to order the termination of block grant assistance to a subrecipient whenever it is determined that it has failed to meet its obligations under the written agreement, or the block grant regulations. Recipients must establish similar provisions governing termination or suspension which must be included as a part of the written agreement.

Disposition Requirements

Section 570.613 sets forth the program requirements relating to disposition of real property by grant recipients, their designated public agencies, and subrecipients under § 570.612. Paragraph (a) relates to the applicability and scope of the section. Proceeds from the disposition of real property shall be returned to the grant recipient as program income, for eligible community development activities.

Determination of Fair Value

Paragraph (b) of § 570.613 requires that the recipient determine the fair market value of any property to be disposed of pursuant to § 570.201(b). Real property may be disposed of at less than the fair market value if a written policy has been adopted by the recipient or subrecipient which describes the

circumstances under which such dispositions will take place.

Prevention of Speculation

Paragraph (d) of § 570.613 is intended to prevent speculation in the disposition of real property under the block grant program, especially where disposition has occurred at less than fair market value. Policies shall be adopted to provide the length of time real property must be used for the stated community development purpose and adequate controls established to preclude speculation in the resale or reuse of such properties.

Special Information

With respect to all of the above, interested persons are invited to participate in the making of the final rule by submitting written comments or views on these proposed amendments. To facilitate HUD's consideration and review of written comments, reviewers are requested to clearly identify the paragraph to which the comments are addressed. Comments should be filed with the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. All relevant comments received on or before the date specified above will be considered before adoption of the final rule. Copies of comments will be available for examination during regular business hours at the above address.

Finding of Inapplicability with respect to Environmental Impact have been prepared in accordance with the National Environmental Policy Act of 1969. Copies of this Finding are available for inspection and copying during regular business hours in the Office of the Rules Docket Clerk at the above address.

Accordingly, 24 CFR Part 570, is amended by revising the index and inserting §§ 570.612 and 570.613.

1. the Table of Contents to 24 CFR Part 570, is revised as follows:

*	*	*	*	*
Sec.	570.612	Program requirements for subrecipients.		
	570.613	Disposition of real property.		

Authority: Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301, et seq.); Title I, Housing and Community Development Act of 1977 (Pub. L. 95-128); and sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); (Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978.)

2. 24 CFR Part 570 is amended by inserting §§ 570.612 and 570.613 as follows:

§ 570.612 Program requirements for subrecipients.

(a) *Applicability and Scope.* The program requirements of this section apply to the use of block grant funds provided by the recipient directly to subrecipients which are either eligible entities under § 570.204(a)(2) or private entities assisted pursuant to § 570.202(c)(1).

(b) *Written agreement.* A subrecipient is required to execute a written agreement with the HUD recipient pursuant to the requirements of this paragraph. The written agreement shall at a minimum, include the following: (1) the specific activity or activities to be undertaken, (2) identification of the actual entity undertaking the activity or activities, including its officers and directors and the legal authority under which it is established and operates, (3) the cost, time period and deadlines associated with the activities, (4) general operating conditions and requirements with regard to accounting and fiscal matters for the use of block grant funds, (5) a provision providing for the recapture of block grant funds when the subrecipient fails to comply with the terms of the agreement or refuses to accept conditions imposed by HUD, (6) a provision stating that an eligible entity shall not dispose of real or personal property through sale, use, or location without the written permission of the recipient, (7) conflicts of interest, (8) the use of program income, (9) remedies in the event of default or inability to perform on the part of the subrecipient; and (10) other requirements of this section. Block grant funds may only be distributed by the recipient to any subrecipient except pursuant to the written agreement required by this paragraph.

(c) *OMB Circular A-102.* The requirements of Attachments A (Cash Deposits), B (Bonding and Insurance), C (Retention and Custodial Requirements for Records), E (Program Income), G (Standards for Grantee Financial Management Systems), N (Property Management Standards) and O (Procurement Standards) of OMB Circular A-102 (42 FR 45828) shall apply to all activities carried out with block grant funds by a subrecipient.

(d) *Reports and information.* The subrecipients receiving block grant assistance shall furnish HUD or the recipient with such statements, records, data and information, as HUD or the

recipient may request pertaining to matters covered by this section.

(e) *Audits and inspections.* At any time during normal business hours any subrecipient receiving block grant assistance shall make all of its records relating to matters covered by this section available to the recipient, HUD, and/or representatives of the Comptroller General in order to permit examination of any audits, invoices, materials, payrolls, personnel records, conditions of employment and other data relating to all matters covered by this section. The audit requirements set forth in § 570.509 shall be fully applicable.

(f) *Unearned payments.* Unearned payments in the form of monetary advances to subrecipients may be suspended or terminated if conditions imposed by the recipient or HUD are not accepted or if the administrative requirements for the use of block grant funds are not met. A written agreement provision of paragraph (b) provides for the recapture of these funds.

(g) *Nondiscrimination.* The nondiscrimination provisions of §§ 570.601 and 570.912 are applicable to subrecipients. No person in the United States shall on the ground of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with community development funds.

(h) *Grant administration.* All activities conducted with block grant funds by subrecipients shall be subject to the following:

(1) *Other program requirements—*(i) Requirements governing Environment, Historic Preservation, Labor Standards, Architectural Barriers Act of 1968, Hatch Act, National Flood Insurance Program, Clean Air Act and Federal Water Pollution Control Act, and Lead-Based Paint Poisoning Prevention Act set forth in §§ 570.603, 570.604, 570.606, 570.608, 570.609, 570.610, and 570.611, respectively, shall be applicable. (ii) The grantee shall be fully responsible for assuring compliance with the above provisions, and thus may not delegate responsibility for compliance reviews to subrecipients.

(2) *Lobbying prohibited—*Block grant funds shall not be used by a subrecipient for publicity or propaganda purposes designed to support or defeat legislation pending before Federal, State, or local government.

(3) *Use of real property—*In addition to the applicable requirements set forth in OMB Circular A-102, whenever block grant funds are used by a subrecipient

for the acquisition or construction in whole or in part (including rehabilitation) of property other than office equipment, supplies, materials and other personal property used for the administration of the activity) and excluding real property acquired pursuant to § 570.201(a) and (b) (expressly for disposition), title to said property shall not be transferred after date of purchase or completion of construction without the approval of the recipient and HUD.

(4) *Ownership of facilities—*(i) Where subrecipients use block grant funds to acquire title to facilities, including those described in § 570.201(c) or § 570.203(b), they shall be operated so as to be open for use by the general public during all normal hours of operation. Reasonable fees may be charged for the use of facilities acquired by subrecipients, but charges, such as excessive membership fees, which will have the effect of precluding low- and moderate-income persons from using the facilities are not permitted.

(ii) In those instances where, during the first five years of operation, the subrecipient seeks to dispose of such facility under provisions other than § 570.201(a) and (b) where property is not acquired specifically for disposition purposes, the proceeds from the disposition of real property shall be returned to the recipient as program income. Proceeds derived by the recipient as a result of the disposition of real property shall be used by the recipient for eligible community development activities to further the general purposes and objectives of the Act.

(5) *Disposition of real property—*In those instances where real property acquired, in whole or in part, with block grant funds is to be disposed of by sale, lease, donation, or otherwise by a subrecipient, the program requirements set forth in § 570.613 governing disposition shall apply.

(6) *Conflict of interest requirements—*Subrecipients must establish safeguards to prohibit individuals associated with such entities from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties. Individuals subject to conflict of interest provisions may nonetheless be members of, or associated with, or provide assistance to such entities so long as such persons do not have any financial interest in the activity or receive compensation for such services.

(i) *Monitoring of block grant funded activities undertaken by eligible entities.* The following policies shall apply to the monitoring of block grant funded activities conducted by subrecipients.

(1) Grantees are responsible for monitoring the compliance of subrecipients with the standards established in this section and in the applicable provisions of OMB Circular A-102.

(2) The recipient shall, on an annual basis, make a determination as to whether the subrecipient has conformed with the written agreement as described in paragraph (b) of this section and the standards and requirements of this section. The recipient must also determine on an annual basis whether the subrecipient has a continuing capacity to carry out block grant assisted activities in a timely manner.

(3) Suspension and termination procedures shall be governed by Subpart O of this Part. HUD reserves the right as a corrective and remedial action pursuant to § 570.910 to order the termination of any grant assistance to a subrecipient when it is determined that the subrecipient has failed to comply with the requirements of this section.

§ 570.613 Disposition of real property.

(a) *Applicability and scope.* The requirements of this section apply to the disposition of real property pursuant to § 570.201(b) by grant recipients, their designated public agencies, and their subrecipients under § 570.612(a). The applicable requirements of OMB Circular A-102, Federal Management Circular 74-4, and this Part apply to such activities. The proceeds from the disposition of real property shall be returned to the grant recipient as program income. Proceeds derived by the grantee as a result of the disposition of real property shall be used by the grantee for eligible community development activities to further the general purposes and objectives of the Act, as set forth in Subpart A.

(b) *Determination of value.* The following policies regarding fair market value apply to the disposition of real property purchased in whole or in part with block grant assistance:

(1) Recipients shall determine the fair market value of any real property acquired and disposed of pursuant to § 570.201 (a) and (b).

(2) If the estimated value of the property exceeds \$2,500, the determination shall be based upon and appraisal prepared by a qualified real estate property appraiser.

(3) Unless prohibited by State or local law, real property may be disposed of at fair market value, or at a price less than or greater than fair market value.

(c) *Disposition of less than fair market value.* In those instances where real property is to be disposed of at less than fair market value as determined by a qualified real property appraiser, the recipient shall develop and adopt a written record which:

(1) Is available to the public; and (2) sets forth and documents the circumstances under which the real property may be disposed of at less than fair market value and how that value is established, (3) states the sales price and fair market value, (4) indicated how the disposition pursuant to § 570.201(b) is consistent with the recipient's community development plan or how the disposition pursuant to § 570.204(c)(4) is consistent with the recipient's neighborhood revitalization or economic development strategy.

(d) *Prevention of speculation.* It is intended that acquisition and subsequent disposition of property acquired in whole or part through the use of block grant assistance will further the objective and purpose of the Act. Disposition of land for speculation purposes alone does not further the objectives and purposes of the Act.

Where disposition occurs for a specified purpose, it is the community's responsibility to implement appropriate policies to ensure that said property is used for that purpose for the specified time period, and that the use of property is consistent with the recipients overall community development plan.

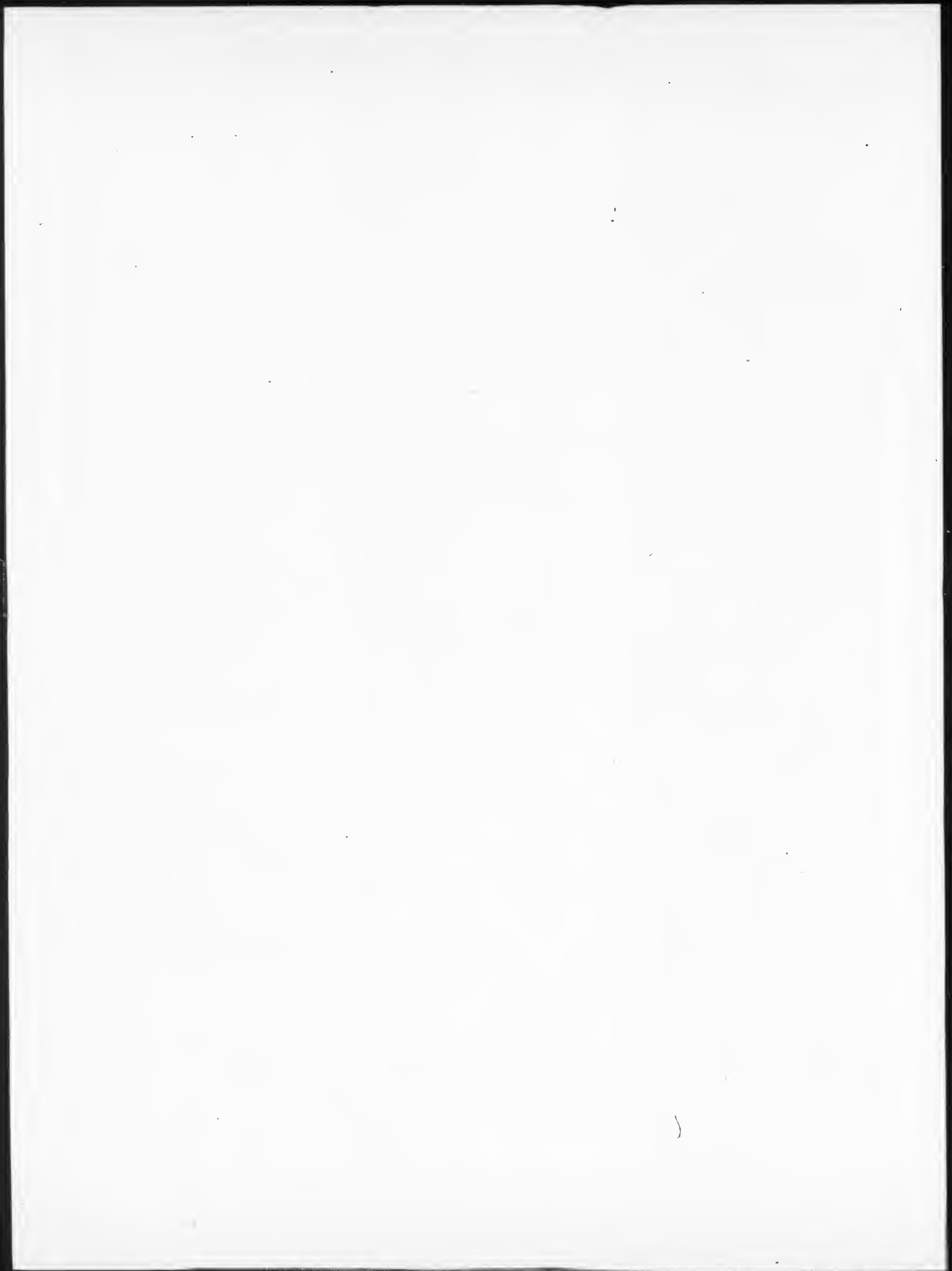
(e) *Unanticipated disposition.* When real property is acquired for other than disposition purposes, and a situation develops where it becomes necessary to dispose of said real property during the first five years of operation, the proceeds from the disposition of the real property shall be returned to the recipient as program income. Proceeds derived by the recipient as a result of the disposition of real property shall be used by the recipient for eligible community development activities for the general purposes and objectives of the Act.

Issued at Washington, D.C., June 25, 1979.

Robert C. Embry, Jr.,
*Assistant Secretary for Community Planning
and Development*

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
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DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
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DOT/SLS	HEW/FDA		DOT/SLS	HEW/FDA
DOT/UMTA			DOT/UMTA	
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Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

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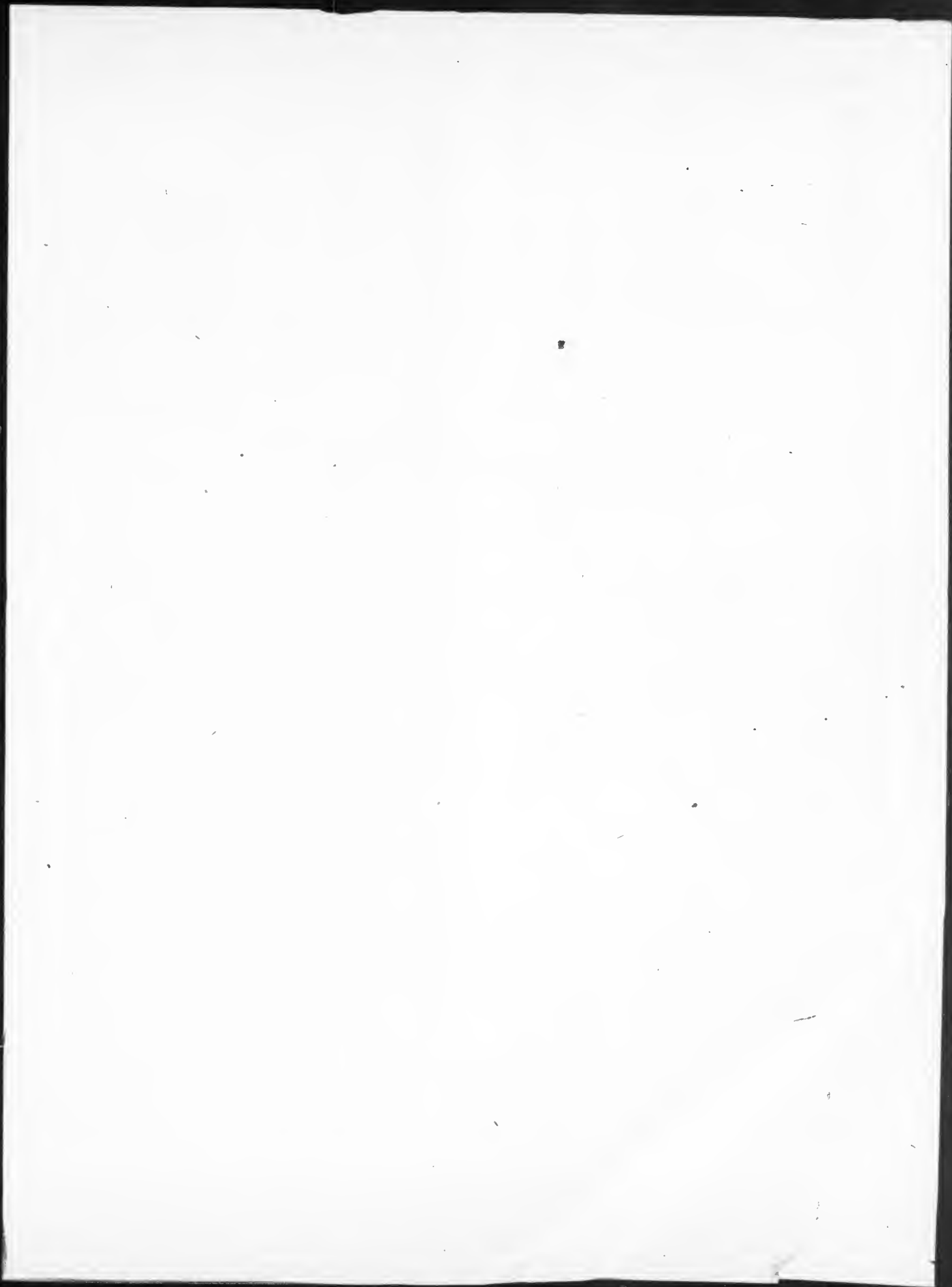
Rules Going Into Effect Today**SECURITIES AND EXCHANGE COMMISSION**

- 7870** 2-7-79 / Investment adviser requirements concerning disclosure, recordkeeping, applications for registration and annual filings

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing July 30, 1979



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