

## § 791.403

### § 791.403 Allocation of housing assistance.

(a) The total budget authority available for any fiscal year shall be determined by adding any available unreserved budget authority from prior fiscal years to any newly appropriated budget authority for each housing program.

(b) Budget authority available for the fiscal year, except for that retained pursuant to § 791.407, shall be allocated to the field offices as follows:

(1) Budget authority shall be allocated as needed for uses that the Secretary determines are incapable of geographic allocation by formula, including—

(i) Amendments of existing contracts, renewal of assistance contracts, assistance to families that would otherwise lose assistance due to the decision of the project owner to prepay the project mortgage or not to renew the assistance contract, assistance to prevent displacement or to provide replacement housing in connection with the demolition or disposition of public housing, assistance in support of the property disposition and loan management functions of the Secretary;

(ii) Assistance which is—

(A) The subject of a line item identification in the HUD appropriations law, or in the table customarily included in the Conference Report on the appropriation for the Fiscal Year in which the funds are to be allocated;

(B) Reported in the Operating Plan submitted by HUD to the Committees on Appropriations; or

(C) Included in an authorization statute where the nature of the assistance, such as a prescribed set-aside, is, in the determination of the Secretary, incapable of geographic allocation by formula,

(iii) Assistance determined by the Secretary to be necessary in carrying out the following programs authorized by the Cranston-Gonzalez National Affordable Housing Act: the Homeownership and Opportunity Through HOPE Act under title IV and HOPE for Elderly Independence under section 803.

(2) Budget authority remaining after carrying out allocation steps outlined in paragraph (b)(1) of this section shall be allocated in accordance with the

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housing needs percentages calculated under paragraphs (b), (c), (d), and (e) of § 791.402. HUD may allocate assistance under this paragraph in such a manner that each State shall receive not less than one-half of one percent of the amount of funds available for each program referred to in § 791.101(a) in each fiscal year. If the budget authority for a particular program is insufficient to fund feasible projects, or to promote meaningful competition, at the field office level, budget authority may be allocated among the ten geographic areas of the country. The funds so allocated will be assigned by Headquarters to the field office(s) with the highest ranked applications within the ten geographic areas.

(c) At least annually HUD will publish a notice in the FEDERAL REGISTER informing the public of all allocations under § 791.403(b)(2).

[61 FR 10849, Mar. 15, 1996, as amended at 64 FR 26640, May 14, 1999]

### § 791.404 Field Office allocation planning.

(a) *General objective.* The allocation planning process should provide for the equitable distribution of available budget authority, consistent with the relative housing needs of each allocation area within the field office jurisdiction.

(b) *Establishing allocation areas.* Allocation areas, consisting of one or more counties or independent cities, shall be established by the field office in accordance with the following criteria:

(1) Each allocation shall be to the smallest practicable area, but of sufficient size so that at least three eligible entities are viable competitors for funds in the allocation area, and so that all applicable statutory requirements can be met. (It is expected that in many instances individual MSAs will be established as metropolitan allocation areas.) For the section 202 program for the elderly, the allocation area must include sufficient units to promote a meaningful competition among disparate types of providers of such housing (e.g., local as well as national sponsors, minority as well as non-minority sponsors). The preceding

sentence shall not apply to projects acquired from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act.

(2) Each allocation area shall also be of sufficient size, in terms of population and housing need, that the amount of budget authority being allocated to the area will support at least one feasible program or project.

(3) In establishing allocation areas, counties and independent cities within MSAs should not be combined with counties that are not in MSAs.

(c) *Determining the amount of budget authority.* Where the field office establishes more than one allocation area, it shall determine the amount of budget authority to be allocated to each allocation area, based upon a housing needs percentage which represents the needs of that area relative to the field office jurisdiction. For each program, a composite housing needs percentage developed under § 791.402 for those counties and independent cities comprising the allocation area shall be aggregated into allocation area totals.

(d) *Planning for the allocation.* The field office should develop an allocation plan which reflects the amount of budget authority determined for each allocation area in paragraph (c). The plan should include a map or maps clearly showing the allocation areas within the field office jurisdiction. The relative share of budget authority by individual program type need not be the same for each allocation area, so long as the total amount of budget authority made available to the allocation area is not significantly reduced.

[61 FR 10849, Mar. 15, 1996, as amended at 64 FR 26640, May 14, 1999]

**§ 791.405 Reallocations of budget authority.**

(a) The field office shall make every reasonable effort to use the budget authority made available for each allocation area within such area. If the Program Office Director determines that not all of the budget authority allocated for a particular allocation area is likely to be used during the fiscal year, the remaining authority may be allocated to other allocation areas where it is likely to be used during that fiscal year.

(b) If the Assistant Secretary determines that not all of the budget authority allocated to a field office is likely to be used during the fiscal year, the remaining authority may be reallocated to another field office where it is likely to be used during that fiscal year.

(c) Any reallocations of budget authority among allocation areas or field offices shall be consistent with the assignment of budget authority for the specific program type and established set-asides.

(d) Notwithstanding the requirements of paragraphs (a) through (c) of this section, budget authority shall not be reallocated for use in another State unless the Program Office Director or the Assistant Secretary has determined that other allocation areas within the same State cannot use the available authority during the fiscal year.

**§ 791.406 Competition.**

(a) All budget authority allocated pursuant to § 791.403(b)(2) shall be reserved and obligated pursuant to a competition. Any such competition shall be conducted pursuant to specific criteria for the selection of recipients of assistance. These criteria shall be contained in a regulation promulgated after notice and public comment or, to the extent authorized by law, a notice published in the FEDERAL REGISTER.

(b) This section shall not apply to assistance referred to in §§ 791.403(b)(1) and 791.407.

**§ 791.407 Headquarters Reserve.**

(a) A portion of the budget authority available for the housing programs listed in § 791.101(a), not to exceed an amount equal to five percent of the total amount of budget authority available for the fiscal year for programs under the United States Housing Act of 1937 listed in § 791.101(a), may be retained by the Assistant Secretary for subsequent allocation to specific areas and communities, and may only be used for:

(1) Unforeseen housing needs resulting from natural and other disasters, including hurricanes, tornadoes, storms, high water, wind driven water, tidal waves, tsunamis, earthquakes, volcanic eruptions, landslides,