DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-6040-N-01]

Housing Notice for Revitalization Area Designation Criteria

Solicitation of Comment

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

ACTION: Notice; Solicitation of Comment.

SUMMARY: Section 204(h) of the National Housing Act authorizes HUD to make HUD-held single family homes and formerly insured mortgages on Single Family properties, referred to as "eligible assets," available for sale in a manner that promotes revitalization, through expanded homeownership opportunities, in "revitalization areas." Section 204(h) also sets forth general statutory criteria that HUD must use to designate such revitalization areas. In this notice, HUD seeks public comment on more detailed criteria for designating revitalization areas, which clarify the general statutory criteria, and which HUD plans to incorporate into a future Housing Notice.

DATES: Comment Due Date: [**INSERT DATE THAT IS 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**.]

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW, Room 10276, Washington, DC 20410-0500. Communications must refer to the above docket number and title.

Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at 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 comments immediately available to the public. Comments submitted electronically through the www.regulations.gov website 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 notice.

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 appointment to review the public comments must be scheduled in advance 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 via TTY by calling the Federal Relay Service at 1-800-877-8339 (this is a toll-free number). Copies of all comments submitted are available for inspection and downloading at www.regulations.gov.

FOR FURTHER INFORMATION, CONTACT: Ivery Himes, Office of Single Family Asset Management, Office of Housing, Department of Housing and Urban Development, 451 7th Street, SW, Room 4130, Washington, DC 20410, 202-708-1672, ext. 5628 (this is not a toll-free number).

SUPPLEMENTAL INFORMATION: As part of HUD's policy of promoting the revitalization of certain communities through providing expanded homeownership opportunities, HUD is seeking public comment on designating Revitalization Areas under Section 204(h) of the National Housing Act (NHA). Separately, the Department of Treasury and the Internal Revenue Service (IRS), under the Tax Cuts and Jobs Act (Pub. Law. 115-97), announced the designation of similar areas, called Opportunity Zones, for all 50 states, the District of Columbia, and five U.S. possessions.[1] Opportunity Zones are eligible for tax benefits to encourage revitalization by attracting private investment in low-income communities. Opportunity Zones may or may not overlap areas designated by HUD as revitalization areas. Individuals interested in obtaining more information regarding Opportunity Zones should contact the Department of Treasury and the IRS. Member of the public interested in providing comment on HUD's designated Revitalization Areas should, however, follow the instructions provided in the section above entitled, **ADDRESSES.**

I. Background

Section 204(h) of the NHA, 12 U.S.C. 1710(h), authorizes HUD to make HUD-held Single Family homes and formerly insured mortgages on Single Family properties, referred to as "eligible assets," "available for sale in a manner that promotes the revitalization, through expanded homeownership opportunities, of revitalization areas."

Properties located in revitalization areas are offered for sale at a discount through discount sales programs, such as the Asset Control Area and Good Neighbor Next Door programs, and to certain governments and nonprofits. All properties involved are HUD-held; that is, they were subject to a mortgage insured by HUD and are now owned by HUD pursuant to the payment of insurance benefits under the NHA and the implementing regulations for the NHA programs that are codified in Chapter II of Title 24 of the Code of Federal Regulations (CFR).

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[1] *See* https://home.treasury.gov/news/press-releases/sm0414.

Under section 204(h)(3) of the NHA, HUD is required to designate "revitalization areas," which must meet one of the statutory criteria for designation. Such criteria include whether the area is:

(1) a "[v]ery-low income area;"

(2) an area with a "[h]igh concentration of eligible assets;" or

(3) an area with a "[l]ow homeownership rate."

In addition to setting each of the three eligible criteria, the statute also provides a limited definition for each criterion.

Criterion #1 - Very-low income area

Under statute, for an area to be "Very-low income," the median household income for the area must be less than 60 percent of the median household income for its metropolitan area, or in the case of any area not located within a metropolitan area, the State in which the area is located.

Criterion #2 - High concentration of eligible assets

Under statute, for an area to have a "High concentration of eligible assets," a high rate of default or foreclosure for insured Single Family mortgages has resulted, or may result, in the area having a disproportionately high concentration of eligible assets, in comparison with the concentration of such assets in surrounding areas or being detrimentally impacted by eligible assets in the vicinity of the area.

Criterion #3 - Low homeownership rate

Under statute, for an area to have a "Low homeownership rate," the rate for homeownership of Single Family Homes in the area must be substantially below the rate for homeownership in the metropolitan area.

When HUD implemented the statute, HUD determined that the statutory criteria for designating revitalization areas required a greater level of detail for effective implementation by Home Ownership Center (HOC) Directors, who are responsible for reviewing revitalization area requests from stakeholders and making revitalization area designation determinations. In order to provide clearer and more usable criteria for HOC Directors, HUD issued Notice H 2011-02 (Jan. 24, 2011), which provided more granular criteria and procedures for evaluating and designating revitalization areas than were prescribed under statute. The 2011 Notice expired January 31, 2012.

II. Proposed Revitalization Area Evaluation Criteria

HUD is now seeking comments for developing new guidance. Through new guidance, HUD seeks to establish a clearer and more usable framework for designating revitalization areas, with the goal of simplifying the task of applying the relevant statutory criteria. HUD intends to include the detailed criteria as part of a future Housing Notice for HOC Directors to use in evaluating and designating revitalization areas. HUD seeks to clarify statutory criteria for revitalization area designation in a way that balances its mission of promoting homeownership and community revitalization with the need to maximize recoveries on distressed assets to ensure the viability of the Mutual Mortgage Insurance Fund. HUD seeks comments on the following clarifications:

Criterion #1 - Very-low income area

HUD proposes the continued use of Census block groups to identify "very low-income areas" as defined in the National Housing Act. Census block groups are the smallest level of geography that the Census uses to disseminate data on household income, which affords local jurisdictions and HUD the most precise unit of geography with which to identify neighborhoods in need of revitalization. In addition, local jurisdictions are experienced in using Census block group and income data required to administer the Community Development Block Grant (CDBG) program. The familiarity and availability of these data to local jurisdictions reduces the burden on stakeholders seeking revitalization area designation under this criterion.

HUD proposes to keep the existing definition of "very-low income area" as established in the National Housing Act which states "for an area to be very-low income, the median household income must be less than 60 percent of the median household income for its metropolitan area, or in the case of any area not located within a metropolitan area, the State in which the area is located." For a proposed Revitalization Area to be eligible based on the "very-low income area" criteria, each individual block group in the proposed area must meet the very-low income definition described above.

HUD proposes to use the median household income data published in the American Community Survey (ACS) 5-year estimates[2] beginning with the ACS 2011-2015 estimates to evaluate proposed Revitalization Areas. HUD proposes that the income data used in its evaluation be updated every 5 years. So, for example, the Department would use the ACS 2011-2015 estimate until the ACS 2016-2020 estimate becomes available. This frequency of data updates is consistent with the update frequency for the Low to Moderate Income and Consolidated Plan data sets that are used in the CDBG program. HUD has adopted a 5-year data update policy (as opposed to annual updates) for its use of ACS data in response to annual fluctuations in the estimates that often cause certain block groups to bounce back and forth between eligible and non-eligible status. Annual fluctuations in the estimate often occur within the estimate's margin of error, which at the block group level can be quite wide, making it difficult to ascertain whether an increase or decrease in the estimated value is indicative of a

[2] HUD proposes to source median household income data from ACS Table B19013 - Median Household Income in the Past 12 Months (in 2017 inflation-adjusted dollars).

meaningful change. By updating the ACS data every 5-years, both HUD and local jurisdictions have a more stable baseline from which to propose and evaluate Revitalization Areas. An update to the ACS data every year would place an undue burden on both HUD and local jurisdictions to re-evaluate existing Revitalization Area designations on an annual basis.

This familiarity and data availability reduce the burden on stakeholders seeking revitalization area designation under this criterion.

Criterion #2 - High concentration of eligible assets

HUD proposes to define "High concentration of eligible assets" to mean an area, defined by one or more block groups, in which: (i) there are at least 100 FHA-insured Single Family home loans within the set of Census block group boundaries to be designated; and (ii) at least 10 percent of the FHA-insured Single Family loans have been foreclosed upon within the past 12 months.

Criterion #3 - Low homeownership rate

HUD proposes the continued use of Census block groups to identify areas with a low home ownership rate to remain consistent with the use of block groups to identify very-low income areas as described in Criterion #1 above. HUD proposes to define "homeownership rate"—for purposes of establishing whether an area has a "Low homeownership rate"—as "the proportion of owner-occupied Single Family housing units[3] compared to all occupied Single Family housing units," computed by dividing the number of owner-occupied housing units in a given geographic area by the total number of occupied "housing units" in the same geographic area, and then multiplying by 100 to create a percentage.

[3] HUD defines a s
ingle-family housing unit as a structure with four or fewer units. HUD proposes to source data to calculate single-family homeownership rates from ACS Table B25032 – Tenure by Units in Structure.

HUD also proposes to define a "substantially low" homeownership rate as one that is less than 60 percent of the rate found in the metropolitan area, or in the case of any block group not located within a metropolitan area, the rate found in the State in which the block group is located. For a proposed Revitalization Area to be eligible based on the low homeownership criterion, each individual block group in the proposed area must meet the definition for substantially low homeownership rate as described above.

The proposed method for calculating the low homeownership rate is the standard method defined in all known literature concerning homeownership rates. The method for defining "substantially low homeownership rate" as 60 percent of the homeownership rate for the metropolitan areas ensures that revitalization areas will have lower homeownership rates relative to the market area, even where the overall market homeownership rates are low.

For example, if the homeownership rate for the State is 65 percent, then a nonmetropolitan block group being evaluated must have a homeownership rate at or below 39 percent to qualify as a revitalization area based on a low homeownership rate; i.e., if the nonmetropolitan block group has 50 households/homes, for the nonmetropolitan block group to qualify as a revitalization area, then 19 or fewer households/homes would have to be owner-occupied.

Finally, HUD proposes that revitalization areas must have an average HUD REO sales price of $200,000 or less, as determined by calculating the average sales price of HUD REO properties within the identified area that reached closed/settlement sale status in the previous 12 months. This provision would ensure that revitalization areas are restricted to places most in need, that is, where the average HUD REO sales price is well below the national median existing home sales price of $269,600 in July of 2018, as reported by the National Association of Realtors.

III. Environmental Impact

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI will be available for public inspection on www.regulations.gov.

Dated: April 17, 2019.

John Garvin,
General Deputy Assistant Secretary for Housing.

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