

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**24 CFR Part 291**

[Docket No. FR-4712-F-03]

RIN 2502-AH72

Disposition of HUD-Acquired Single Family Property; Good Neighbor Next Door Sales Program

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

ACTION: Final rule.

SUMMARY: This final rule establishes regulations for HUD's new Good Neighbor Next Door (GNND) Sales Program. The requirements for the new program are closely modeled on those for HUD's Officer Next Door (OND) and Teacher Next Door (TND) Sales Programs. The GNND Sales Program replaces and builds upon the success of these two existing sales programs. The purpose of the GNND Sales Program is to improve the quality of life in distressed urban communities by encouraging law enforcement officers, teachers, and firefighters/emergency medical technicians, whose daily responsibilities represent a nexus to the needs of the community, to purchase and live in homes in these communities. This final rule follows publication of a September 8, 2005, proposed rule and takes into consideration the public comments received on the proposed rule.

DATES: *Effective Date:* December 1, 2006.

FOR FURTHER INFORMATION CONTACT:

Laurie A. Maggiano, Acting Director, Office of Single Family Asset Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 9172, Washington, DC 20410-8000; telephone (202) 708-1672 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:**I. Background**

A vital part of HUD's mission is to promote homeownership and the revitalization of cities. In support of these goals, HUD permanently established the OND Sales Program on July 2, 1999 (64 FR 36210). The OND Sales Program enables full-time law enforcement officers to purchase HUD-acquired homes located in revitalization areas at a 50 percent discount from list prices. The success of the OND Sales Program led to the establishment of the

TND Sales Program on December 7, 1999, which encourages eligible teachers to purchase HUD-acquired homes located in HUD-designated revitalization areas at a 50 percent discount from list prices.

In June 2004, HUD completed an evaluation of the success of the OND and TND Sales Programs. The evaluation supported the view that an influx of police officers as homeowners results in a decrease in crime in a target neighborhood. HUD's evaluation of the OND/TND Sales Programs is available for download at www.huduser.org.

II. The September 8, 2005, Proposed Rule and Federal Register Notice

On September 8, 2005, HUD published a proposed rule to establish regulations for a new GNND Sales Program to replace and build upon the success of the OND and TND Sales Programs (70 FR 53479). While many of the requirements in the GNND Sales Program are similar, HUD proposed various modifications and improvements to the OND and TND requirements. The objective of the GNND program is to improve the quality of life in distressed urban communities by encouraging law enforcement officers, teachers, and firefighters/emergency medical technicians, whose daily responsibilities reflect a high level of public service commitment and represent a nexus to the needs of the community, to purchase and live in homes in these communities. An overview of the GNND Sales Program and HUD's proposed regulatory changes can be found in the preamble to the September 8, 2005, proposed rule.

Also on September 8, 2005, in addition to the publication of the proposed rule, HUD also published a notice announcing the eligibility of firefighters and emergency medical technicians to immediately participate in the OND Sales Program (70 FR 53488). This expansion of the OND Sales Program was designed to help more firefighters and emergency medical technicians become homeowners and to advance the goals of the program to accelerate the revitalization of America's cities by promoting the integration of dedicated role models and mentors into the community. The September 8, 2005, notice authorized firefighters and emergency medical technicians to participate under, and be subject to, the regulations for the OND Sales Program.

III. This Final Rule; Significant Changes to the September 8, 2005, Proposed Rule

This final rule follows publication of the September 8, 2005, proposed rule, and takes into consideration the public comments received on the proposed rule. The regulations for the GNND Sales Program would be codified at 24 CFR part 291, subpart F, which currently contains the regulations for the OND Sales Program. After careful review of the public comments, HUD has made the following changes to the proposed rule:

1. *Financing of 203(k) rehabilitation costs.* The final rule has been revised to provide for the inclusion of rehabilitation costs in the mortgage used to purchase the home, where such purchase is being financed with an FHA-insured 203(k) mortgage.

2. *Providing for two backup bids in the event that the original purchaser fails to reach closing.* The final rule has been revised to provide for two backup purchasers, if sufficient bids are received, as alternatives should the first purchaser fail to complete the home purchase.

3. *Clarification of eligible teachers under the GNND Sales Program.* The final rule has been revised to clarify that only full-time teachers employed at state-accredited public and private schools serving students from the area where the home is located qualify as eligible participants under the GNND Sales Program. Other persons employed by an accredited public or private school are not eligible to participate in the GNND Sales Program.

4. *Properties Available for Sale under the GNND Sales Program.* The final rule clarifies that the properties available for sale under the GNND Sales Program will be the same types of properties eligible for purchase under the OND and TND programs. Specifically, the final rule clarifies that occupied properties, properties located in Asset Control Areas, and properties that HUD determines will be sold through an alternative sales method will not be made available for purchase under the GNND Sales Program. The new regulatory language does not revise existing policies, but rather codifies existing practices of the OND and TND programs. Regulatory codification of the types of properties made available for sale will help provide the public with greater understanding and clarity of the process followed by HUD in the administration of the GNND Sales Program.

5. *Clarification of the terms "closing costs," "selling broker commissions,"*

and "downpayment." This final rule continues to provide that HUD will not pay a buyer's closing costs on the purchase of a property through the GNND Sales Program. Further, HUD has revised the rule to specify that in no event will HUD pay selling broker commissions. The addition of this phrase clarifies that the purchaser is wholly responsible for paying closing costs and selling broker commissions in a transaction under this program. The closing costs are expenses borne by the purchaser to complete the sale. The selling broker's commission is one component of the closing costs owed by the purchaser.

The revision also serves to clarify that closing costs and selling broker commissions are not properly considered to be part of a required downpayment. The downpayment is a financial outlay made by the purchaser to acquire equity in the property and does not include closing or other costs that do not represent an investment in equity.

IV. Discussion of Public Comments Received on the September 8, 2005, Proposed Rule

The public comment period on the proposed rule closed on November 7, 2005. HUD received 16 public comments in response to the proposed rule. Comments were received from a realtor's association, a state home program, a mortgage corporation, a law enforcement labor organization, a non-profit organization, teachers, a firefighter, realtors, and individual citizens. This section of the preamble presents a summary of the significant issues raised by the public commenters on the September 8, 2005, proposed rule, and HUD's responses to those issues.

Comment: A statement clarifying how real estate broker commissions are to be applied at closing to the purchase price is needed so that closing procedures will be uniformly interpreted and implemented. Two commenters wrote that given the number of different players involved in the disposition of the HUD single-family properties, written procedures for contracts and settlement statements are necessary to avoid confusion. The commenters asked for clarification as to how commissions and closing costs apply at closing to the purchase price, and specifically whether the seller or the buyer (OND/TND) is responsible for paying the broker's commission and closing costs.

HUD Response. HUD is revising the rule in response to these comments. Specifically, HUD has revised § 291.545(c) to specify that in no event

will HUD pay selling broker commissions. The addition of this phrase clarifies that the purchaser is wholly responsible for paying closing costs and selling broker commissions in a transaction under this program. The final rule continues to provide that in no event will HUD pay a buyer's closing costs on the purchase of a property through the GNND Sales Program. However, a purchaser using a mortgage insured by the Federal Housing Administration (FHA) to finance the purchase of a home through the GNND Sales Program may include reasonable and customary closing costs within the amount borrowed with the FHA-insured mortgage. The revision also serves to clarify that closing costs and selling broker commissions are not properly considered to be part of a required downpayment. The downpayment is a financial outlay made by the purchaser to acquire equity in the property and does not include closing or other costs that do not represent an investment in equity.

Comment: The requirement that purchasers submit bids on GNND homes through a participating real estate broker unnecessarily imposes the additional cost of a commission and should be eliminated. One commenter wrote that since the regulations do not specify that brokers must waive their normal commission, participants would incur an additional cost they may not be able to afford. The commenter wrote that brokers are unnecessary because HUD is governing the disposition of these homes. The commenter also wrote that this requirement could result in a special pool of brokers that would unfairly funnel GNND business to this select group.

HUD Response. HUD has not revised the rule in response to this comment. The use of brokers benefits participants because they have specialized knowledge and can facilitate the home buying process. HUD disagrees that the requirement would result in the establishment of a select group of brokers. Any real estate broker who has agreed to comply with HUD requirements may participate in the GNND Sales Program. Due to continued competition among brokers, the commission charged by brokers will have to be responsive to purchasers' ability and willingness to pay, and be commensurate with the services provided.

Comment: Support for GNND Sales Program. Several commenters wrote in support of the GNND Sales Program. In particular, the commenters expressed strong support for expanding eligibility to include firefighters and emergency

medical technicians. The commenters wrote that the rule would make buying a home for GNND Sales Program participants feasible by significantly reducing the cost of housing.

HUD Response. HUD appreciates the support expressed by the commenters for the GNND Sales Program. The final rule will benefit participating law enforcement officers, teachers, firefighters, and emergency medical technicians, as well as the communities that they serve. The regulatory requirements established by this final rule will help to ensure that the inventory of available homes is distributed to most effectively realize the goals of the program.

Comment: As formulated, the success of the GNND Sales Program is in jeopardy because the universe of eligible participants has been expanded while the number of properties available for purchase has been reduced. One commenter objected to the regulatory cap on sales of HUD-acquired homes under the GNND Sales Program to no greater than 5 percent of the number of "Part A" mortgage insurance conveyance claims paid by HUD in the immediately preceding fiscal year. The commenter wrote that the cap would force law enforcement officers, teachers, and firefighters/emergency medical technicians to compete against each other. The commenter wrote that this will make it much more difficult to achieve the desired goal of improving the quality of life in distressed urban communities. The commenter also wrote that relying on a lottery system to award properties on which there are multiple bids shows an indifference to the success of the OND Sales Program. The commenter recommended that the OND Sales Program remain a program separate from the GNND Sales Program.

HUD Response. HUD has not revised the rule in response to this comment. HUD continues to believe that expanding eligibility to include firefighters and emergency medical technicians will bring justifiable added benefit to the communities to be served by the GNND Sales Program. Neither the increased number of eligible participants nor the cap on the volume of properties available will result in a diminished supply of homes available for sale through the program. The purpose of the cap is to provide control over properties in the event there is an unanticipated surge in the number of foreclosures in revitalization areas, which in turn would result in a surge in payments of FHA insurance. HUD does not anticipate the cap as having any practical effect on the supply of homes available because the volume of

recorded sales in recent years has consistently been substantially below the proposed cap. Additionally, the rule provides HUD with the authority to adjust the percentage of the cap for any fiscal year should adjustment be warranted.

Comment: The revision to the definition of law enforcement officer would exclude federal law enforcement and other officers, thereby reducing the number of law enforcement officers who are eligible to participate in the program. One commenter wrote that the narrowing of the definition of "law enforcement officer" would exclude federal law enforcement officers employed in a law enforcement capacity by governmental agencies that are not separate, specific law enforcement agencies. The commenter recommended revising the rule so that such federal law enforcement officers can participate. The commenter also wrote that the definition should continue to include law enforcement officers employed by public and private universities and colleges. The commenter, relying on the evaluation report of the OND Sales Program, wrote that it is the presence of officers in distressed communities that has a positive impact and not whether or not they have authority to make arrests.

HUD Response. HUD has not revised the rule in response to this comment. One of the purposes of the OND Sales Program was to revitalize distressed communities by deterring the commission of crimes with the presence of law enforcement officers in these areas. The GNND Sales Program continues to focus on traditional law enforcement officers with general arrest authority, because their work and presence in the community most closely relates to this policy.

Comment: First responders employed by nongovernmental entities should be eligible for the GNND Program. One commenter wrote that since first responders have to be employed by a governmental agency in order to be eligible to participate in the GNND Sales Program, responders providing the same services through a private entity are being excluded unfairly. The commenter wrote that all emergency medical technicians and paramedics should be included since they save lives in all communities.

HUD Response. HUD has not revised the rule in response to this comment. HUD recognizes that firefighters and emergency medical technicians employed by private entities sometimes perform similar services as those employed by governmental entities. However, the inclusion of privately

employed firefighters and emergency medical technicians would create ambiguity in assessing an individual's eligibility to participate. This broader, more ambiguous approach would also result in a costly administrative burden for HUD to determine eligibility and increase the risk of awarding properties to ineligible individuals. To assure that the purposes of the GNND Sales Program can be fulfilled in a cost-effective and efficient manner, HUD has not revised the rule in response to this comment.

Comment: The eligibility requirements of not having previously owned any residential real property for one year prior to the date of submitting a bid and not having previously purchased a home under the GNND Sales Program should not apply to law enforcement officers. The commenter wrote that this new restriction fails to consider that law enforcement officers choosing to participate in the program may move from their current home to a distressed community to become more involved in the community they serve, or may participate or have participated in the OND Sales Program and then transfer or have since been transferred to another jurisdiction that has GNND properties available.

HUD Response. HUD has not revised the rule in response to this comment. The eligibility requirements referred to by the commenter support increasing the overall number of participants who can benefit from the program while avoiding opportunistic behavior by repeat participants. Further, in the past, allowing current homeowners to submit bids has been a source of problems in reaching closing with those purchasers. This new requirement better aligns with the Department's interest in increasing the number of homeowners and opening up homeownership to new families.

Comment: The amount a purchaser can borrow to finance the purchase of a home using an FHA-insured mortgage should depend on the type of FHA-insured mortgage issued. Two commenters wrote that § 291.545(b) of the rule, which establishes the maximum amount of an FHA-insured mortgage used to purchase a GNND home, should be revised to reflect 203(k) rehabilitation loans. Under the proposed rule, the amount of the FHA-insured mortgage may not exceed the discounted sales price of the home plus the closing costs and pre-paid items. However, under the 203(k) program, a borrower may also finance the costs of rehabilitation of the property along with the purchase cost of the home. The commenter suggested that § 291.545(b) be revised to permit the financing of

rehabilitation costs where the purchase of the home is being financed with an FHA-insured 203(k) mortgage.

HUD Response. HUD agrees that the amount of financing available to the participant should depend on the type of FHA-insured mortgage being utilized. Participants utilizing an FHA-insured mortgage may finance the discounted sales price plus reasonable closing costs. Additionally, rehabilitation expenses may be incorporated into the FHA-insured mortgage if the purchase of the home is being financed with an FHA-insured 203(k) mortgage. The Section 203(k) program is HUD's primary program for the rehabilitation and repair of single family properties. As such, it is an important tool for community and neighborhood revitalization and for expanding homeownership opportunities, which HUD agrees should be available to GNND Sales Program participants. Accordingly, HUD has modified § 291.545(b) to explicitly provide for the inclusion of rehabilitation costs financed with an FHA-insured 203(k) loan.

Comment: Creating a distinction as to closing costs between conventional and FHA-insured mortgages unfairly penalizes participants who choose not to use an FHA-insured mortgage. One commenter wrote that participants choosing conventional mortgages will have to pay closing costs out-of-pocket while those with an FHA-insured mortgage may be able to finance reasonable and customary closing costs.

HUD Response. HUD is not altering the final rule in response to this comment.

The scope of HUD's regulatory authority extends to FHA-insured mortgages. HUD is empowered to set the terms and conditions of FHA-insured mortgages. Since conventional mortgages are not subjected to HUD's regulatory authority, such mortgages pose additional risk. Regardless of the type of financing used by a purchaser, HUD will not pay any closing costs. With regard to the downpayment, purchasers using an FHA-insured mortgage may make a downpayment of \$100.

Comment: Forfeiture of an earnest money deposit upon the failure of the participant to close, without regard to the underlying circumstances, is overly burdensome. One commenter recommended that a provision be included to ensure that earnest money deposits be returned if extenuating circumstances occur that keep a sale from closing.

HUD Response. HUD has not revised the rule in response to these comments. The requirement that a potential purchaser make a minimal earnest

money deposit (which will never exceed \$2,000) helps to ensure that prospective purchasers are acting in good faith and are willing and able to proceed to closing on the purchase of the home.

Comment: Disqualifying a potential participant on the basis that his/her spouse previously owned residential property or participated in the GNND Program could result in unintended consequences. One commenter wrote that participant eligibility should be determined on an individual basis. The commenter wrote that evaluating eligibility as proposed will entice people to divorce in order to take advantage of this program, resulting in weaker families and communities.

HUD Response. HUD has not revised the rule in response to this comment. The spousal eligibility requirement is consistent with the policy of permitting one-time participation in the GNND Sales Program and supports HUD's interest in promoting homeownership opportunities to first-time homebuyers.

Comment: GNND participants should not be required to make an earnest money deposit. One commenter wrote that the GNND Sales Program should operate like the existing OND and TND Sales Programs and not require a downpayment. Another commenter questioned having to put up any money when the quality of the homes is substandard and would only agree to make such a deposit if it would ensure better quality homes and locations. A third commenter also wrote that the GNND Sales Program should not require an earnest money deposit of up to \$2,000 so that the Program continues to make purchasing a home affordable for teachers and officers serving their communities.

HUD Response. HUD has not revised the rule in response to these comments. The amount of the required earnest money deposit will not impose an undue financial burden on potential home purchasers. The required deposit is equal to one percent of the list price, but no more than \$2,000. This minimal earnest money deposit helps to ensure that purchasers are acting in good faith and are willing and able to proceed to closing on the purchase of the home.

Comment: Nonprofit organizations should continue to be allowed to purchase properties through the GNND Sales Program. One commenter wrote that nonprofit entities should continue to be allowed to purchase properties under the GNND Sales Program so that they can rehabilitate the properties and then sell them to eligible participants at the discounted rate. The commenter wrote that participating nonprofit organizations could enable more GNND

transactions to reach closing, thereby reducing the number of homes that go to open bidding.

HUD Response. HUD has not adopted the change suggested by the commenter. The inclusion of nonprofit organizations unnecessarily inserts a third party between the ultimate program beneficiary and HUD. The Department believes that limiting participation in the GNND Sales Program to the ultimate purchasers—law enforcement officers, teachers, and firefighters/emergency medical technicians—will better focus the program and help to ensure that the GNND Sales Program accomplishes its goals.

Comment: The rule should provide for additional backup bids. One commenter wrote that HUD should select more than one backup bid in the event that the winning bidder is unable to close on the purchase of the property. Specifically, the commenter recommended that HUD select up to seven backup bids.

HUD Response. HUD has modified the final rule in response to this comment. Recognizing the programmatic goal of bringing community-minded service professionals into distressed communities, HUD acknowledges that it may be necessary to allow for multiple backup bids from eligible officers, teachers, firefighters, or emergency medical technicians in the event that a winning bidder is unable to proceed to closing. Two backup purchasers will be given the opportunity to proceed to closing. If these purchasers fail to complete the closing on the property, it will then be made available for sale to other purchasers. While the commenter suggested that seven backup bids be considered, HUD believes that doing so is unnecessarily administratively burdensome and could delay the availability of HUD acquired homes for purchase. In settling on two backup bids, HUD believes that it has struck an equitable balance between providing eligible participants with the maximum opportunity to purchase inventoried properties and enabling efficient management to effectively move unsold properties to the open market.

V. Findings and Certifications

Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866 (entitled "Regulatory Planning and Review"). OMB determined that this rule is a significant regulatory action as defined in section 3(f) of the Order (although not

economically significant, as provided in section 3(f)(1) of the Order). The docket file is available for public inspection in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410-0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the docket file by calling the Regulations Division at (202) 708-3055 (this is not a toll-free number). Hearing- and speech-impaired persons may access the telephone number listed above via TTY by calling the Federal Information Relay Service at (800) 877-8339.

Information Collection Requirements

The information collection requirements contained in this final rule have been approved by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB Control Number 2502-0306. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and the private sector. This rule does not impose any federal mandates on any state, local, or tribal governments, or the private sector within the meaning of UMRA.

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Order. This final rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Order.

Environmental Impact

A Finding of No Significant Impact with respect to the environment was made at the proposed rule stage in accordance with HUD regulations at 24 CFR part 50, which implement section

102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Finding of No Significant Impact remains applicable to this final rule and is available for public inspection between the hours of 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410-0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the finding by calling the Regulations Division at (202) 708-3055 (this is not a toll-free number). Hearing- and speech-impaired persons may access the telephone number listed above via TTY by calling the Federal Information Relay Service at (800) 877-8339.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This final rule promotes safe neighborhoods by enabling law enforcement officers, teachers, and firefighters/emergency medical technicians to purchase HUD-acquired single-family homes at a significant discount. The final rule places restrictions on the use of a home purchased through the GNND Sales Program, which affects the individual purchasing the home. This rule, however, does not place restrictions on any small entities involved in any transactions related to the GNND Sales Program. Accordingly, the undersigned certifies that this final rule would not have a significant economic impact on a substantial number of small entities.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance Number for the Officer Next Door Program is 14.198. The Catalog of Federal Domestic Assistance Number for the Teacher Next Door Initiative is 14.310.

List of Subjects in 24 CFR Part 291

Community facilities, Conflict of interests, Homeless, Lead poisoning, Low and moderate income housing, Mortgages, Reporting and recordkeeping requirements, Surplus government property.

■ Accordingly, for the reasons described in the preamble, HUD amends 24 CFR part 291 as follows:

PART 291—DISPOSITION OF HUD-ACQUIRED SINGLE FAMILY PROPERTY

■ 1. The authority citation for 24 CFR part 291 continues to read as follows:

Authority: 12 U.S.C. 1701 *et seq.*; 42 U.S.C. 1441, 1441a, 1551a, and 3535(d).

■ 2. Subpart F is revised to read as follows:

Subpart F—Good Neighbor Next Door Sales Program

Sec.

291.500 Purpose.

291.505 Definition of “unit of general local government.”

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291.520 Eligible law enforcement officers.

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Subpart F—Good Neighbor Next Door Sales Program

§ 291.500 Purpose.

This subpart describes the policies and procedures governing the Good Neighbor Next Door (GNND) Sales Program. The purpose of the GNND Sales Program is to improve the quality of life in distressed urban communities. This is to be accomplished by encouraging law enforcement officers, teachers, and firefighters/emergency medical technicians, whose daily responsibilities and duties represent a nexus to the needs of the community, to purchase and live in homes in these communities.

§ 291.505 Definition of “unit of general local government.”

For purposes of this subpart, the term *unit of general local government* means a county or parish, city, town, township, or other political subdivision of a state.

§ 291.510 Overview of the GNND Sales Program.

(a) *General.* The GNND Sales Program enables a full-time law enforcement officer, teacher, or firefighter/emergency medical technician to purchase a specifically designated HUD-acquired home located in a HUD-designated revitalization area:

(1) At a 50 percent discount from the list price; and

(2) With a downpayment of \$100, but only if the law enforcement officer, teacher, or firefighter/emergency medical technician finances the home through a Federal Housing Administration (FHA) insured mortgage.

(b) *Eligible properties.* Under the GNND Sales Program, single-unit properties acquired by HUD located in HUD-designated revitalization areas (except occupied properties), those located in Asset Control Areas, or those that HUD has determined will be sold through an alternative sales method will be made available to interested law enforcement officers, teachers, and firefighters/emergency medical technicians prior to listing the properties for sale to other purchasers.

(c) *Multiple bids.* In the event that several bids are received on a single property, HUD will randomly select a winning offer by lottery and will also randomly select two backup bids, to be utilized in the order selected, in the event the winning purchaser is unable to close on the property. If both of the backup purchasers are also unable to close on the property, the property will then be made available for sale to purchasers through other sales methods.

(d) *Real estate brokers.* Law enforcement officers, teachers, and firefighters/emergency medical technicians must submit bids through a participating real estate broker. Any real estate broker who has agreed to comply with HUD requirements may participate in the GNND Sales Program. Real estate brokers may submit unlimited numbers of bids on an individual property provided each bid is from a different prospective purchaser.

(e) *Cap on sales.* The number of HUD-acquired homes sold under the GNND Sales Program in a fiscal year shall not exceed 5 percent of the number of “Part A” mortgage insurance conveyance claims paid by HUD in the prior fiscal year. The cap shall apply on a national basis, but HUD reserves the right to geographically apportion the cap to address regional or local differences in the number of homes sold through the GNND Sales Program. Additionally, HUD may adjust the percentage of the cap for any fiscal year. Any HUD determination to geographically distribute the cap, change a current geographic distribution, or adjust the percentage of the cap will be announced by HUD through publication of a notice in the **Federal Register** at least 30 days before the revision takes effect.

§ 291.515 Purchaser qualifications.

To qualify to purchase a home through the GNND Sales Program:

(a) The person must be employed as a law enforcement officer (as described in § 291.520), teacher (as described in § 291.525), or firefighter/emergency medical technician (as described in § 291.530) at the time he/she submits a bid to purchase a home through the program and at the time of closing on the purchase of the home;

(b) The person must certify to his/her good faith intention to continue employment as a law enforcement officer (as described in § 291.520), teacher (as described in § 291.525), or firefighter/emergency medical technician (as described in § 291.530) for at least one year following the date of closing;

(c) The person must make an earnest money deposit at the time of signing the contract for purchase of the home, as described in § 291.535;

(d) The person must agree to own, and live in as his/her sole residence, the home for the entire duration of the owner-occupancy term, as described in § 291.540, and to certify to that occupancy, as described in § 291.565;

(e) The person must agree to execute a second mortgage and note on the home, as described in § 291.550, for the difference between the list price and the discounted selling price;

(f) Neither the person (nor his/her spouse) may have owned any residential real property during the year prior to the date of submitting a bid on the home being acquired through the GNND Sales Program;

(g) Neither the person (nor his/her spouse) must ever have purchased another home under the GNND Sales Program or under the predecessor Officer Next Door Sales and Teacher Next Door Sales Programs; and

(h) Although both spouses, if otherwise eligible, may submit a bid on a single home made available for sale under the GNND Sales Program, HUD will approve a bid from only one spouse.

§ 291.520 Eligible law enforcement officers.

A person qualifies as a law enforcement officer for the purposes of the GNND Sales Program if the person is:

(a) Employed full-time by a law enforcement agency of the federal government, a state, a unit of general local government, or an Indian tribal government; and

(b) In carrying out such full-time employment, the person is sworn to uphold, and make arrests for violations of, federal, state, tribal, county, township, or municipal laws.

§ 291.525 Eligible teachers.

A person qualifies as a teacher for the purposes of the GNND Sales Program if the person is:

(a) Employed as a full-time teacher by a state-accredited public school or private school that provides direct services to students in grades pre-kindergarten through 12; and

(b) The public or private school where the person is employed as a teacher serves students from the area where the home is located in the normal course of business.

§ 291.530 Eligible firefighter/emergency medical technicians.

A person qualifies as a firefighter/emergency medical technician for the purposes of the GNND Sales Program if the person is employed full-time as a firefighter or emergency medical technician by a fire department or emergency medical services responder unit of the federal government, a state, unit of general local government, or an Indian tribal government serving the area where the home is located.

§ 291.535 Earnest money deposit.

(a) *General.* The earnest money deposit is the sum of money that must be paid by the law enforcement officer, teacher, or firefighter/emergency medical technician at the time of submitting a bid to purchase a property under the GNND Sales Program. Each bid must be accompanied by a certification from the real estate broker that the earnest money deposit has been deposited in the broker's escrow account.

(b) *Amount of earnest money deposit.* The amount of the earnest money deposit required is an amount equal to one percent of the list price, but no less than \$500 and no more than \$2,000.

(c) *Acceptance or rejection of offer.* If an offer is accepted, the earnest money deposit will be credited to the purchaser at closing. If the offer is rejected, the earnest money deposit will be returned. Earnest money deposits are subject to total forfeiture for failure of the participant to close a sale.

§ 291.540 Owner-occupancy term.

(a) *General.* The owner-occupancy term is the number of months a participant in the GNND Sales Program must agree to own, and live in as his/her sole residence, a home purchased through the GNND Sales Program.

(b) *Start of owner-occupancy term.* The owner-occupancy term is 36 months, commencing either:

(1) Thirty days following closing if HUD determines that the home requires no more than \$10,000 in repairs prior to occupancy;

(2) Ninety days following closing if HUD determines that the home requires more than \$10,000, but not more than \$20,000 in repairs prior to occupancy; or

(3) One hundred and eighty days following closing if HUD determines that the home requires more than \$20,000 in repairs prior to occupancy.

(c) *Interruptions to owner-occupancy term—(1) General.* HUD may, at its sole discretion, allow interruptions to the 36-month owner-occupancy term if it determines that the interruption is necessary to prevent hardship, but only if the law enforcement officer, teacher, or firefighter/emergency medical technician submits a written and signed request to HUD containing the following information:

(i) The reason(s) why the interruption is necessary;

(ii) The dates of the intended interruption; and

(iii) A certification from the law enforcement officer, teacher, or firefighter/emergency medical technician that:

(A) The law enforcement officer, teacher, or firefighter/emergency medical technician is not abandoning the home as his/her permanent residence; and

(B) The law enforcement officer, teacher, or firefighter/emergency medical technician will resume occupancy of the home upon the conclusion of the interruption and complete the remainder of the 36-month owner-occupancy term.

(2) *Timing of written request to HUD.* The written request for approval of an interruption to the owner-occupancy term must be submitted to HUD at least 30 calendar days before the anticipated interruption. Military service members protected by the Servicemembers Civil Relief Act need not submit their written request to HUD 30 days in advance of an anticipated interruption, but should submit their written request as soon as practicable upon learning of a potential interruption, in order to ensure timely processing and approval of the request.

§ 291.545 Financing purchase of the home.

(a) *Purchase using conventional financing.* If the law enforcement officer, teacher, or firefighter/emergency medical technician uses conventional financing to purchase a home under the GNND Sales Program, the amount of the mortgage may not exceed the discounted sales price of the home.

(b) *Purchase with FHA-insured mortgage.* (1) A law enforcement officer, teacher, or firefighter/emergency medical technician using an FHA-insured mortgage to finance purchase of

the home may finance reasonable and customary closing costs with the FHA-insured mortgage.

(2) The amount of the FHA-insured mortgage may not exceed the discounted sales price of the home plus:

(i) The closing costs; and
(ii) The costs of rehabilitating and/or improving the home, where purchase of the home is being financed with an FHA-insured 203(k) rehabilitation loan (see 24 CFR part 203).

(c) *Closing costs and selling broker's commissions.* In no event will HUD pay a buyer's closing costs on the purchase of a property or a selling broker's commission through the GNND Sales Program.

§ 291.550 Second mortgage.

(a) *General.* The second mortgage is a mortgage and note, payable to HUD, on the home purchased through the GNND Sales Program in the amount of the difference between the list price of the home and the discounted selling price.

(b) *Second mortgage term.* The term of the second mortgage is equal to the owner-occupancy term (36 months) plus 30, 90, or 180 days, as provided in § 291.540(b). The amount of the second mortgage will be reduced by 1/36th on the last day of each month of occupancy following the occupancy start date. At the end of the 36th month of occupancy, the amount of the second mortgage will be zero.

(c) *Sale or vacancy of home.* If the law enforcement officer, teacher, or

firefighter/emergency medical technician sells his/her home or stops living in the home as his/her sole residence prior to the expiration of the owner-occupancy term, he/she will owe HUD the amount due on the second mortgage as of the date the property is either sold or vacated.

§ 291.555 Refinancing.

(a) *General.* A law enforcement officer, teacher, or firefighter/emergency medical technician may refinance the mortgage and note used to purchase the home. However, the total of the refinanced mortgage and the remaining principal balance of the second mortgage may not exceed 95 percent of the value of the property, as appraised at the time of the refinancing. Unless HUD permits subordination pursuant to paragraph (b) of this section, the second mortgage described in § 291.550 must hold a superior lien position to the refinanced mortgage.

(b) *Subordination of second mortgage.* HUD may permit subordination of the second mortgage to the refinanced mortgage, but only if HUD, at its sole discretion, determines that the refinancing will satisfy one of the following:

(1) Will result in a lower annual percentage rate (APR) on the first mortgage;

(2) Will be undertaken pursuant to HUD's Section 203(k) Rehabilitation

Loan Insurance Program in order to rehabilitate or repair the home; or

(3) Is necessary to prevent the law enforcement officer, teacher, or firefighter/emergency medical technician from defaulting on the first mortgage.

§ 291.560 Ineligibility of multiple-unit properties.

Only single-unit properties are eligible for the GNND Sales Program.

§ 291.565 Continuing obligations after purchase.

To remain in compliance with the GNND Sales Program, the law enforcement officer, teacher, or firefighter/emergency medical technician must, for the entire duration of the owner-occupancy term:

(a) Continue to own, and live in as his/her sole residence, the home purchased through the GNND Sales Program; and

(b) Certify initially and once annually thereafter during and at the conclusion of the owner-occupancy term that he/she was at all times fully in compliance with paragraph (a) of this section.

Dated: October 25, 2006.

Brian D. Montgomery,

Assistant Secretary for Housing—Federal Housing Commissioner.

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