

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 291

[Docket No. FR-4712-P-01; HUD-2005-0016]

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: Proposed rule.

SUMMARY: This proposed rule would establish 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 would replace and build 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 responders whose daily responsibilities and duties represent a nexus to the needs of the community to purchase and live in homes in these communities. Although the requirements governing the new GNND Sales Program would be similar to the existing requirements for the Officer and Teacher Next Door Sales Programs, HUD is also proposing to make several important modifications and improvements to the existing requirements.

DATES: *Comments Due Date:* November 7, 2005.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410-0500. Interested persons may also submit comments electronically through either:

- The Federal eRulemaking Portal at www.regulations.gov; or
- The HUD electronic Web site at www.epa.gov/feddoCKET. Follow the link entitled "View Open HUD Dockets." Commenters should follow the instructions provided on that site to submit comments electronically.

Facsimile (FAX) comments are not acceptable. In all cases, communications must refer to the docket number and

title. All comments and communications submitted will be available, without charge, 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, please schedule an appointment to review the public comments by calling the Regulations Division at (202) 708-3055 (this is not a toll-free number). Copies of the public comments are also available for inspection and downloading at www.epa.gov/feddoCKET.

FOR FURTHER INFORMATION CONTACT:

Joseph McCloskey, 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 established the OND Sales Program. 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. HUD's regulations for the OND Sales Program are located in subpart F of 24 CFR part 291 (entitled "Disposition of HUD-Acquired Single Family Properties").

In June 2004, HUD completed an evaluation of the success of the OND and TND Sales programs, which supported the assumption that an influx of police officers as homeowners does result in a substantial decrease in serious crime in a target neighborhood. HUD's evaluation of the OND/TND Sales programs is available for download at www.huduser.org.

The success of the OND Sales Program led to the development of the TND Sales Program. The TND Sales Program, modeled after the OND Sales Program, was designed to enable more teachers to help revitalize economically distressed neighborhoods by encouraging eligible teachers to purchase HUD-acquired homes located in HUD-designated revitalization areas at a 50 percent discount from list prices. HUD announced the creation of the TND Sales Program through a **Federal**

Register notice published on December 7, 1999 (64 FR 68370).

II. This Proposed Rule

This proposed rule would establish regulations for the GNND Sales Program. The requirements for the new program are similar to those for the existing OND and TND Sales Programs. The GNND Sales Program would replace and build upon the success of these two existing sales programs. The regulations for the GNND Sales Program would replace the existing OND regulations at 24 CFR part 291, subpart F. The objective of the new program is to improve the quality of life in distressed urban communities by encouraging law enforcement officers, teachers, and firefighters/emergency responders, whose daily responsibilities and duties 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.

III. Overview of the GNND Sales Program

Although the requirements governing the new GNND Sales Program would be similar to the existing requirements for the OND and TND programs, HUD is also proposing to make several important modifications and improvements to the current requirements. This section of the preamble provides an overview of the proposed GNND Sales Program and highlights the most significant changes that would be made to the existing requirements by this rule.

1. *General.* The GNND Sales Program will enable a full-time law enforcement officer, teacher, or firefighter/emergency responder (collectively referred to in this rule as "participants") to purchase a HUD-acquired home located in a HUD-designated revitalization area at a 50 percent discount from the list price. The participant would also be eligible to purchase the home with a reduced down payment of \$100, but only if the participant finances the home through an FHA-insured mortgage.

To be eligible to purchase a home under the GNND Sales Program, the participant (or his/her spouse) may not have owned any residential real property for one year prior to the date of submitting an offer on the home being acquired through the program. Further, the participant (or his/her spouse) must not have previously purchased another home under the GNND Sales Program (or its predecessor OND/TND sales programs). This will help to ensure that the limited inventory of properties available for sale under the GNND Sales

Program are purchased by individuals who do not currently own a home. Although both spouses, if otherwise eligible, may submit an offer on a single property made available for sale under the program, HUD will approve an offer from only one spouse.

Under the current OND/TND requirements, participants are prohibited from owning any residential property (other than the home purchased through the OND or TND sales programs) during the owner occupancy term. Upon reconsideration, HUD has concluded that this requirement imposes an unduly burdensome restriction on business activity. Accordingly, the prohibition on the purchase of other residential property during the owner occupancy term would no longer apply under the GNND Sales Program.

2. Eligible properties. Under the GNND Sales Program, all properties acquired by HUD that are located in HUD-designated revitalization areas (both those that are eligible for FHA mortgage insurance and those that are not eligible) will be made available to interested participants prior to listing the properties for sale to other purchasers.

In the event that several offers are made on a single property, HUD will select a winning offer by lottery, as well as a back-up offer in the event the winning offeror is unable to close on the purchase of the property. If the back-up offeror is also unable to close on the purchase of the property, the property will then be made available for sale to other purchasers. Unlike the current OND/TND requirement, GNND offerors will no longer be required to notify HUD of their geographic area of interest and to indicate a preliminary interest in a particular property. This current OND/TND requirement has proven to be an administratively burdensome and inefficient method for determining interest in properties made available for sale under the programs. As a matter of practice, HUD lists properties eligible for purchase separately from other properties, so that they can be more easily identified.

3. Real Estate Brokers. Participants must submit offers through a participating real estate broker. In HUD's experience, the business expertise of real estate brokers is beneficial to participants and facilitates the home buying process. 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 offers on an individual property

provided each offer is from a different prospective purchaser.

4. Cap on Program Sales. HUD proposes to limit the number of HUD-acquired homes sold under the GNND Sales Program in a fiscal year to no greater than five percent of the number of "Part A" mortgage insurance conveyance claims paid by HUD in the immediately preceding fiscal year. (Generally, there are two "parts" to the payment of an FHA mortgage insurance claim. A Part A claim consists of payment to cover the unpaid principal balance of the mortgage loan and certain interest expenses. A Part B claim, which is paid subsequent to a Part A claim, includes all other expenses covered by the FHA mortgage insurance.)

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 retains the flexibility to adjust the percentage of this 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 would be announced by HUD through publication of a **Federal Register** notice at least 30 days before the revision takes effect. This provision would allow HUD to respond to disparities or changing circumstances more quickly than might be possible through notice and comment rulemaking procedures, while still ensuring that affected members of the public are provided with advance notice of any changes to the GNND Program sales cap.

HUD believes that the proposed cap on sales will help ensure that sufficient numbers of HUD-acquired properties are available for other departmental property disposition initiatives (such as the programs for discounted sales to nonprofit organizations and government agencies). Further, the proposed limit on properties sold under the GNND Sales Program will better enable HUD to control the program and implement any necessary changes.

5. Eligible law enforcement officers. A law enforcement officer would be eligible to purchase a home through the GNND Sales Program if 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. Further, in carrying out such full-time employment, the law enforcement officer must be sworn to uphold, and make arrests for violations of federal, state, tribal, county, township, or municipal law. For

purposes of the GNND Sales Program, the term "unit of general local government" would be defined to mean a county or parish, city, town, township, or other political subdivision of a state.

As noted above, the officer must be employed by a law-enforcement agency. Officers employed by federal, state, local, or tribal agencies that are not law-enforcement agencies (such as, for example, a public housing authority) would not be eligible to participate under the GNND Sales Program. The employment requirement must be satisfied both at the time the law enforcement officer submits a bid to purchase the home, and at the time of closing on the purchase of the home.

Law enforcement officers employed by public or private colleges and universities would no longer be eligible to participate under the new program. Generally, these law enforcement officers do not have arrest authority beyond the campus and therefore have limited deterrent effect on crime in the communities where they live. Continuing eligibility to include these officers would not achieve the objective of the GNND Sales Program, which is to improve the quality of life in distressed urban communities by having law enforcement officers live in the neighborhoods where they are authorized to make arrests.

The scope of the definition of law enforcement officer has been expanded to include tribal police officers. Tribal police officers are sworn to uphold and make arrests for violations of tribal law. Because tribal police officers have general arrest authority, the presence of tribal police officers would be as beneficial to their communities as that of their counterparts employed by federal, state, or local governments. HUD, therefore, proposes to revise the current regulations to allow tribal police officers to participate in the GNND Sales Program.

6. Eligible teachers. A teacher would be eligible to purchase a home through the GNND Sales Program if employed full-time by a state-accredited public school or private school that provides direct services to students in grades pre-kindergarten through 12. The employment requirement must be satisfied both at the time the teacher submits a bid to purchase the home, and at the time of closing on the purchase of the home. The public or private school where the teacher is employed must serve students from the area where the home is located in the normal course of business.

7. Eligible firefighters/emergency responders. The GNND Sales Program would include firefighters and

emergency responders as a new class of eligible participants. To qualify as a firefighter/emergency responder, an individual would have to be employed as a full-time firefighter or emergency medical technician by a fire department or emergency medical services responder unit of the federal government, a state, a unit of general local government, or an Indian tribal government serving the area where the home is located. The employment requirement must be satisfied both at the time the firefighter/emergency responder submits a bid to purchase the home, and at the time of closing on the purchase of the home.

8. *Earnest money deposit.* The participant would be required to make an earnest money deposit at the time of submitting an offer to purchase a home. The amount of the earnest money deposit required for a property would be an amount equal to one percent of the list price, but no less than \$500 and no more than \$2,000.

The earnest money deposit must be in the form of a cash equivalent or a certification from the real estate broker that the earnest money deposit has been deposited in the broker's escrow account. If an offer is accepted, the earnest money deposit would be credited to the purchaser at closing. If the offer is rejected, the earnest money deposit would be returned. Earnest money deposits are subject to total forfeiture upon the participant's failure to close a sale.

9. *Start of owner-occupancy term.* Participants must agree to live in the home purchased through the GNND Sales Program as their sole residence for at least 36 months. This proposed rule would establish new requirements governing the commencement of the required owner-occupancy term. The required start date would be based upon the date of closing and would vary depending on the scope of any repairs necessary for occupancy of the home. Specifically, the proposed rule provides that occupancy of the home must commence within 30 days after the closing date if HUD determines that the home requires no more than \$10,000 in repairs prior to occupancy. If HUD determines that the home requires repairs worth more than \$10,000 but less than \$20,000, occupancy must start within 90 days of the closing date. If HUD determines that the home requires more than \$20,000 in repairs, occupancy would be required to commence within 180 days of the closing date. The HUD determination regarding the amount of required repairs will be made solely for purposes of establishing the commencement of the

owner-occupancy term, and does not constitute an assurance or guarantee for the benefit of purchaser.

10. *Interruptions to the owner-occupancy term.* 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. The participant must submit a written and signed request to HUD containing: (1) The reasons why the interruption is necessary; (2) the dates of the intended interruption; and (3) a certification from the participant that he/she is not abandoning the home as his/her permanent residence and will resume occupancy of the home upon the conclusion of the interruption to complete the remainder of the 36-month owner-occupancy term.

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 of 2003 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.

11. *Financing purchase of the home.* If the participant 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. However, a participant using an FHA-insured mortgage to finance purchase of the home may finance reasonable and customary closing costs with the FHA-insured mortgage. The amount of the FHA-insured mortgage may not exceed the discounted sales price of the home plus the closing costs. In no event will HUD pay a buyer's closing costs on the purchase of a property through the GNND Sales Program.

12. *The second mortgage.* A participant must agree to execute a second mortgage and note payable to HUD on the home in the amount of the difference between the list price and the discounted selling price. The term of the second mortgage is equal to the owner-occupancy term (36 months) plus 30, 90, or 180 days, as applicable depending on the amount of repairs required prior to occupancy (see section III.9. of this preamble). The amount of the second mortgage will be reduced by $\frac{1}{36}$ 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. If the participant sells the home or stops living in the home as his/her sole residence prior to the expiration of the owner-occupancy term, the participant will owe HUD the amount due on the second mortgage as of the date the property is sold or vacated.

13. *Refinancing.* This proposed rule would permit a participant to refinance the mortgage used to finance the purchase of his/her 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. The second mortgage must hold a superior lien position to the refinanced mortgage in the absence of a subordination. HUD may permit subordination of the second mortgage, but only if HUD, at its sole discretion, determines that at least one of the following three conditions is satisfied: (1) The refinancing will result in a lower annual percentage rate on the first mortgage; (2) the refinancing is undertaken pursuant to HUD's Section 203(k) Rehabilitation Loan Insurance Program in order to rehabilitate or repair the home; or (3) the refinancing is necessary to prevent the participant from defaulting on the first mortgage.

14. *Multi-unit properties.* Multi-unit properties would continue to be ineligible for purchase under the GNND Sales Program.

15. *Continuing obligations.* To remain a participant in the GNND Sales Program, the participant must, for the entire duration of the owner-occupancy term, continue to own and live in as his/her sole residence the home purchased through the GNND Sales Program. Additionally, the participant must certify initially, and once annually thereafter during and at the conclusion of the owner-occupancy term, that he or she owns, has lived in, and continues to live in the home as his or her sole residence.

16. *Governmental entities and nonprofit organizations.* Under the proposed rule, governmental entities and nonprofit organizations would no longer be eligible to purchase HUD-acquired homes for sale under the GNND Sales Program. Currently, governmental entities and nonprofit organizations may purchase OND and TND properties if they resell these homes directly to eligible law enforcement officers and teachers under the terms and conditions of the OND and TND Sales Programs. HUD believes that limiting participation in the GNND Sales Program to the ultimate purchasers—law enforcement officers, teachers, and firefighters/emergency

responders—will better focus the program and help to ensure that the GNND Sales Program accomplishes its goals.

IV. 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).

Information Collection Requirements

The information collection requirements contained in this proposed rule have been submitted to OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). In accordance with the Paperwork Reduction Act, an agency 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.

The burden of the information collections in this proposed rule is estimated as follows:

REPORTING AND RECORDKEEPING BURDEN

Section reference	Number of parties	Number of responses per respondent	Estimated average time for requirement (in hours)	Estimated annual burden (in hours)
§§ 291.515, 291.520, 291.525, 291.530, and 291.540	30,100	1	.12	3,612

In accordance with 5 CFR 1320.8(d)(1), HUD is soliciting comments from members of the public and affected agencies concerning this collection of information to:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology (e.g., permitting electronic submission of responses).

Interested persons are invited to submit comments regarding the information collection requirements in this rule. Under the provisions of 5 CFR part 1320, OMB is required to make a decision concerning this collection of information between 30 and 60 days after today’s publication date. Therefore, a comment on the information collection requirements is best assured of having its full effect if OMB receives the comment within 30 days of today’s publication. This time frame does not affect the deadline for comments to the agency on the proposed rule, however. Comments must refer to the proposal by name and docket number (FR–4712) and must be sent to both: HUD Desk Officer,

Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Fax number: (202) 395–6947; and, Kathleen McDermott, Reports Liaison Officer, Office of Housing-Federal Housing Commissioner, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 9116, Washington, DC 20410–8000.

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 proposed 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 has been made 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 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.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (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 proposed rule promotes safe neighborhoods by enabling law enforcement officers, teachers, and firefighters/emergency responders to purchase HUD-acquired single family homes at a significant discount. The proposed rule places restrictions on the use of a home purchased through the GNND Sales Program, which affects the individual purchasing the home. The proposed 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

proposed rule would not have a significant economic impact on a substantial number of small entities. Notwithstanding HUD's determination that this rule will not have a significant economic effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described by this preamble.

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 proposes to amend 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."
291.510	Overview of the GNND Sales Program.
291.515	Purchaser qualifications.
291.520	Eligible law enforcement officers.
291.525	Eligible teachers.
291.530	Eligible firefighter/emergency responders.
291.535	Earnest money deposit.
291.540	Owner-occupancy term.
291.545	Financing purchase of the home.
291.550	Second mortgage.
291.555	Refinancing.
291.560	Ineligibility of multiple-unit properties.
291.565	Continuing obligations after purchase.

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 responders, 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 responder 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 responder finances the home through a Federal Housing Administration (FHA) insured mortgage.

(b) *Eligible properties.* Under the GNND Sales Program, all properties acquired by HUD located in HUD-designated revitalization areas (both those that are eligible for FHA mortgage insurance and those that are not eligible) are made available to interested law enforcement officers, teachers, and firefighters/emergency responders prior to listing the properties for sale to other purchasers.

(c) *Multiple offers.* In the event that several offers are made on a single property, HUD will randomly select a winning offer by lottery as well as a back-up offer in the event the winning offer is unable to close on purchase of the property. If the back-up offer is also unable to close on the purchase of the property, the property will then be made available for sale to other purchasers.

(d) *Real estate brokers.* Law enforcement officers, teachers, and firefighters/emergency responders must submit offers 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 offers on an individual property provided each offer 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 five percent of the number of "Part A" mortgage insurance conveyance claims paid by HUD in the immediately preceding 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 full-time law enforcement officer (as described in § 291.520), teacher (as described in § 291.525), or firefighter/emergency responder (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 responder (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 initial list price and the discounted selling price;

(f) Neither the person (nor his/her spouse) may have owned any residential real property for one 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 an offer on a single home made available for sale under the GNND Sales Program, HUD will only approve an offer 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, 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 full-time 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 serves students from the area where the home is located in the normal course of business.

§ 291.530 Eligible firefighter/emergency responders.

A person qualifies as a firefighter/emergency responder, 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 responder at the time of submitting an offer for purchase of a property under the GNND Sales Program. Each bid must be accompanied by an earnest money deposit in either the form of a cash

equivalent as prescribed by HUD, or 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 (30) days following closing, if HUD determines that the home requires no more than \$10,000 in repairs prior to occupancy;

(2) Ninety (90) 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 (180) 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 responder submits a written and signed request to HUD containing the following information:

(i) The reasons 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 responder that:

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

(B) The law enforcement officer, teacher, or firefighter/emergency responder 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 of 2003 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 responder 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.* A law enforcement officer, teacher, or firefighter/emergency responder using an FHA-insured mortgage to finance purchase of the home may finance reasonable and customary closing costs with the FHA-insured mortgage. The amount of the FHA-insured mortgage may not exceed the discounted sales price of the home plus the closing costs.

(c) *No HUD payment of closing costs.* In no event will HUD pay a buyer's closing costs on the purchase of a property 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 applicable depending on the amount of repairs required prior to occupancy (see § 291.540(b)). The amount of the second mortgage will be reduced by $\frac{1}{36}$ th 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 responder 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 either as of the date the property is sold or vacated.

§ 291.555 Refinancing.

(a) *General.* A law enforcement officer, teacher, or firefighter/emergency responder 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 responder 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 a participant in the GNND Sales Program, the law enforcement officer, teacher, or firefighter/emergency responder, 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 paragraph (a) of this section continues to be true.

Dated: July 8, 2005.

Brian D. Montgomery,

Assistant Secretary for Housing-Federal Housing Commissioner.

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