



# Federal Register

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**Monday,  
March 22, 2004**

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**Part V**

## **Department of Housing and Urban Development**

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**America's Affordable Communities  
Initiative, HUD's Initiative on Removal of  
Regulatory Barriers: Announcement of  
Incentive Criteria on Barrier Removal in  
HUD's FY 2004 Competitive Funding  
Allocations; Notice**

**DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT**

[Docket No. FR-4882-N-03]

**America's Affordable Communities  
Initiative, HUD's Initiative on Removal  
of Regulatory Barriers: Announcement  
of Incentive Criteria on Barrier  
Removal in HUD's FY 2004 Competitive  
Funding Allocations**

**AGENCY:** Office of the General Counsel,  
HUD.

**ACTION:** Notice.

**SUMMARY:** Through this notice HUD announces its intention to proceed to establish in the majority of its Fiscal Year (FY) 2004 notices of funding availability (NOFAs), including HUD's SuperNOFA, a policy priority for increasing the supply of affordable housing through the removal of regulatory barriers to affordable housing as proposed in a notice published on November 25, 2003. In proceeding to implement this proposal, HUD took into consideration the public comments received on the November 25, 2003, notice and changes were made in response to public comment as more fully discussed in this notice.

**FOR FURTHER INFORMATION CONTACT:**

Camille E. Acevedo, Associate General Counsel for Legislation and Regulations, Office of General Counsel, Room 10282, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500, telephone (202) 708-1793 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On November 25, 2003 (68 FR 66294), HUD published in the **Federal Register** a notice that announced its proposal to provide incentives to regulatory barrier removal in HUD's funding allocations, commencing with FY2004 competitive funding process. HUD proposed in the November 25, 2003, notice to establish in the majority of its FY2004 NOFAs, including HUD's SuperNOFA, a policy priority for increasing the supply of affordable housing through the removal of regulatory barriers.

*Policies Restricting Affordable Housing*

HUD's proposal published on November 25, 2003, derives from HUD's continuing efforts to increase opportunities for affordable rental and homeownership housing, which is one

of the highest priorities of the Department. Over the last 15 years, there has been increased recognition that unnecessary, duplicative, excessive or discriminatory public processes often significantly increase the cost of housing development and rehabilitation. Often referred to as "regulatory barriers to affordable housing," many public statutes, ordinances, regulatory requirements, or processes and procedures significantly impede the development or availability of affordable housing without providing a commensurate or demonstrable health or safety benefit. "Affordable housing" is decent quality housing that low-, moderate-, and middle-income families can afford to buy or rent without spending more than 30 percent of their income. Spending more than 30 percent of income on shelter may require families to sacrifice other necessities of life.

Addressing these barriers to housing affordability is a necessary component of any overall national housing policy. However, addressing such barriers must be viewed as a complement, not a substitute for other efforts to meet affordable housing needs. For many families, federal, state and local subsidies are fundamental tools for meeting these affordable housing needs. In many instances, however, other sometimes well-intentioned public policies work at cross-purposes with subsidy programs by imposing significant constraints. From exclusionary zoning that keeps out affordable housing, especially multifamily housing, to other regulations and requirements that unnecessarily raise the costs of construction, the need to address this issue is clear. For example, affordable rehabilitation is often constrained by outmoded building codes that require excessive renovation. Barrier removal will not only make it easier to find and get approval for affordable housing sites but it will also allow available subsidies to go further in meeting these needs. For housing for moderate-income families often referred to as "work force" housing, barrier removal can be the most essential component of meeting housing needs.

The Advisory Commission on Regulatory Barriers to Affordable Housing in its 1991 report "Not in My Backyard: Removing Barriers to Affordable Housing" (see <http://www.huduser.org/bibliodb/Bibliography.asp?id=5806>), estimated that these policies and procedures directly increase construction or rehabilitation costs by up to 35 percent. Over the past twelve years, numerous

academic studies have confirmed this finding. In addition to direct cost impacts, many policies and processes further exacerbate the problem by constraining overall housing supply with a general deleterious impact upon overall housing affordability. A 35 percent reduction in development costs would allow millions of American families to buy or rent housing that they currently cannot afford.

In 1990, in the Cranston-Gonzales National Affordable Housing Act, Congress, for the first time, recognized the importance of public policies and processes to the supply of affordable housing. Section 105(b)(4) requires state and local governments to explain as part of their Comprehensive Housing Affordability Strategy (CHAS)—now included in HUD's Consolidated Plan—whether a proposed public policy affects housing affordability and describe the jurisdiction's strategy to remove or ameliorate negative effects, if any, of such policies (see 24 CFR 91.210(e) and 24 CFR 91.310(d)). Congress, in Title XII of the 1992 Housing and Community Development Act, reiterated its interest in this important subject by authorizing grants for regulatory barrier removal and established a Regulatory Barriers Clearinghouse (see [www.regbarriers.org](http://www.regbarriers.org)). In the American Homeownership Act of 2000, Congress reauthorized the Clearinghouse and simplified procedures for a barrier removal grant program. In June 2003, HUD announced "America's Affordable Communities Initiative: Bringing Homes within Reach through Regulatory Reform." This departmentwide initiative will work with state and local governments to address regulatory barriers as well as address how HUD's own regulations may present barriers to affordable housing. Against this background, HUD developed the proposal published in the **Federal Register** on November 25, 2003.

*HUD's November 25, 2003, Proposal*

HUD's proposal, published on November 25, 2003, called for a new policy priority to be added to the list of policy priorities that HUD traditionally includes in its NOFAs. As a policy priority in HUD's NOFAs (and like other policy priorities in HUD NOFAs), higher rating points would be available to (1) governmental applicants that are able to demonstrate successful efforts in removing regulatory barriers to affordable housing, and (2) nongovernmental applicants that are associated with jurisdictions that have undertaken successful efforts in removing barriers. The proposal advised

that for the higher rating points to be obtained applicants had to respond to a series of evaluative questions that HUD determined were significantly important and have broad-based applicability to measure state, local, and tribal government efforts at regulatory reform and which serve as good "markers" for effective regulatory reform.

HUD solicited public comment from prospective applicants of HUD funding as well as other interested members of the public. The November 25, 2003, notice originally called for a public comment deadline of December 29, 2003, but HUD extended the deadline to January 12, 2004.

## II. Overview of Comments Received on Proposal

HUD received 37 public comments in response to the November 25, 2003, notice. The commenters consisted of state and local housing agencies, state and local community development agencies, nonprofit organizations that provide housing services, and organizations representative of the building industry, including manufactured housing; model code developers, and states, counties and cities.

The majority of the commenters were supportive of HUD's proposal, and within this group, several of the commenters offered suggestions on how the proposal could be strengthened and improved. Other comments applauded the objective of the proposal but expressed concern whether HUD's proposal was the best vehicle to achieve this objective. Some of the commenters offered alternative proposals for HUD's consideration and others also offered suggestions on revisions to the proposal that they believed might lead to more effective implementation.

Concerns expressed by some of the commenters included: A possible adverse impact on nonprofit organizations that are unable to influence the actions of the governments in the areas in which they do business; the possible adverse impact on small rural communities that might find it difficult to compete in this category with large urban communities and large nonprofit organizations; the additional administrative burden that may be imposed on applicants seeking the higher points under this priority; the proposal fails to consider the great variety of regulations used by cities across the nation, which may be viewed as barriers; and the proposed policy priority will inappropriately affect local land use decisionmaking (e.g., limiting a government's access to funding unless it compromises its local authority).

Suggestions submitted by the commenters included limiting the policy priority to those funding allocations limited to housing production; delaying the implementation to allow HUD additional time to educate jurisdictions and the public about this policy; testing the effectiveness of this policy through a pilot program; and reducing the points to one point for the first year of implementation, and gradually increasing the points in each fiscal year. Two commenters recommended that HUD's Self-Help Homeownership Opportunities Program (SHOP) program not be subject to the proposal. Many commenters offered revisions, deletions or additions to the evaluative criteria proposed to be used in the November 25, 2003, notice. Several comments included requests for definitions in the final notice to ensure consistent application by all applicants.

HUD appreciated the comments submitted in response to the November 25, 2003, notice. Although HUD is not delaying implementation, or implementing as a pilot, or limiting to funding allocations for housing production, or reducing points, or removing the SHOP program from the covered list of programs, HUD is making several changes to the evaluative criteria. The following section highlights the more significant changes being made to the criteria.

## III. Overview of Changes Made to the Evaluative Criteria

Based upon the comments received, extensive changes and additions have been made to the evaluative criteria in the notice published on November 25, 2003. PART A now contains 20 questions as opposed to 13 questions in the November 25, 2003, notice. PART B now contains 15 questions as opposed to 6 questions in the November 25, 2003, notice. A greater number of questions will permit more jurisdictions and applicants to reach the applicable threshold for receiving one or two points. A number of commenters stated that many questions in the November 25, 2003, notice had component elements that prevented an affirmative response if one of the major elements was met but not another. In response to this comment, this final notice divides several compound questions into component parts so that an applicant can respond to an individual component and be graded for the response to the individual component. However, in those few cases where two elements must be joined for a meaningful response, this final notice maintains the compound question. In a

number of questions, the evaluative criteria now provide for alternative responses, which should also assist applicants in responding affirmatively. Several questions were also revised to reflect comments that suggested that few jurisdictions would be able to claim credit for regulatory reforms that had been made. For example, the proposed question A2 "Does your jurisdiction have impact fees?" has been eliminated and two new questions (A5 and A6) have been included that more accurately reflect the reality of municipal financing and measure significant but achievable efforts at regulatory reform. Other questions were rewritten to reflect comments that suggested that the original questions required clarification. This final notice also adds a number of new questions that commenters recommended as ones that would present additional meaningful indicia of state and local regulatory reform efforts (see new questions A4, A19 and A20). In Part B, a number of new questions have also been added such as B7, B8, B10, and B11 to reflect and recognize the impact of reforms to state enabling legislation and other efforts that a number of states have taken to address regulatory issues.

## IV. Programs Covered By Incentive Criteria on Barrier Removal

The programs that are subject to the questions, evaluation and rating system described in this notice were not changed from those listed in the November 25, 2003, notice. The programs include, but are not necessarily limited to the HUD programs and initiatives listed in this Section IV, which are those for which Congress generally appropriates funding on an annual basis and for which HUD generally issues a NOFA to make funding available.

- Alaskan Native/Native Hawaiian Institutions Assisting Communities (AN/NHIAC)
- Assisted Living Conversion Program
- Brownfields Economic Development Initiative (BEDI)
- Community Outreach Partnership Centers
- Continuum of Care
  - Supportive Housing Program (SHP)
  - Shelter Plus Care (S+C)
- Section 8 Moderate Rehabilitation SRO Program for Homeless Individuals
- Shelter Plus Care Renewals
- Doctoral Dissertation Research Grant Program
- Early Doctoral Student Research Grant Program
- Fair Housing Initiatives Program

- Healthy Homes Demonstration
  - Healthy Homes Technical Studies
  - Hispanic Serving Institutions Assisting Communities (HSIAC)
  - Historically Black Colleges and Universities Program (HBCU)
  - HOPE VI
  - Housing Counseling Program
  - Housing Opportunities for Persons With AIDS (HOPWA)
  - HUD Urban Scholars Fellowship Program
  - Lead Action Elimination Program (LEAP)
  - Lead Based Paint Hazard Control Program
  - Lead Hazard Reduction Demonstration
  - Lead Outreach Grant Program
  - Lead Technical Studies Program
  - Resident Opportunities and Self-Sufficiency (ROSS) Program
    - ROSS for Resident Service Delivery Models—Elderly
    - ROSS for Resident Service Delivery Models—Family
    - ROSS for Neighborhood Networks
    - ROSS for Homeownership Supportive Services
  - Rural Housing and Economic Development
  - Section 202 Supportive Housing for the Elderly
  - Section 811 Supportive Housing for Persons With Disabilities
  - Service Coordinators in Multifamily Housing
  - Tribal Colleges and Universities (TCUP)
  - Youthbuild
- For SHOP and HUD programs that may be similar to SHOP in which large national or regional organizations distribute HUD funds on a competitive basis among organizations to facilitate the funded-programs' eligible activities, the larger organizations will implement the policy priority through their funding availability documents. That is, the organizations competing for the HUD funds made available by the larger organizations will have the opportunity, through their application for funds, to

claim the points made available for this policy priority.

The list of programs that would be covered by regulatory barrier policy priority reflects the Department's objective to apply this policy priority to as many HUD-funded programs as possible.

**V. Evaluation Criteria**

Although the policies and processes that affect housing affordability are many and diverse, the following evaluative questions have been determined to be significantly important and have broad-based applicability to measure state, local, and tribal government efforts at regulatory reform so as to be considered good "markers" for effective regulatory reform.

All applicants submitting applications in response to FY2004 NOFAs will be invited to address the questions below to be eligible to receive points allocated for the policy priority of regulatory barrier removal.

Local jurisdictions and counties with land use and building regulatory authority applying for funding, as well as housing authorities, nonprofit organizations, and other qualified applicants applying for funding for a project located in these jurisdictions, are invited to answer the 20 questions in Part A. A limited number of these questions expressly request the applicant to provide brief documentation in the application and are so indicated. For all other questions, for any affirmative statement made, the applicant must supply either a reference, URL, or a brief statement indicating where the back up information may be found and a point of contact including a telephone number and/or email address. The Department may request the applicant to subsequently submit supporting or clarifying documentation for any affirmative statements made. For those applications in which regulating authority is split between jurisdictions

(e.g. county and town) the applicant should answer the question for that jurisdiction that has regulating authority over the issue at question. An applicant that scores at least five in Column 2 will receive 1 point in the NOFA evaluation. An applicant that scores 10 or greater in Column 2 will receive 2 points in the evaluation.

State agencies or departments applying for funding, as well as housing authorities, nonprofit organizations and other qualified applicants applying for funds for projects located in unincorporated areas or areas otherwise not covered in Part A are invited to answer the 15 questions in Part B. Under Part B an applicant that scores at least four in Column 2 will receive 1 point in the NOFA evaluation. Under Part B an applicant that scores eight or greater will receive 2 points in the respective evaluation.

Applicants that will be providing services in multiple jurisdictions can choose to address the questions in either Part A or Part B for that jurisdiction in which the preponderance of services will be performed if an award is made. In no case can an applicant receive for this policy priority greater than 2 points for barrier removal activities. For applicants that are tribes or Tribally Designated Housing Entities (TDHEs), the tribes or TDHEs can choose to complete either Part A or Part B based upon a determination by the tribes or TDHE as to whether the tribe's or the TDHE's association with the local jurisdiction or the state would be the more advantageous for its application.

**Note:** Upon completion of all NOFA evaluations, grant selections and awards, it is HUD's intent to add relevant data obtained from this evaluative factor to the database on state and local regulatory reform actions maintained at the Regulatory Barrier Clearinghouse Web site ([at www.huduser.org/rbc/](http://www.huduser.org/rbc/)) used by states, localities and housing providers to identify regulatory barriers and learn of exemplary local efforts at regulatory reform.

**PART A.—LOCAL JURISDICTIONS, COUNTIES EXERCISING LAND USE AND BUILDING REGULATORY AUTHORITY AND OTHER APPLICANTS APPLYING FOR PROJECTS LOCATED IN SUCH JURISDICTIONS OR COUNTIES**

[Collectively, jurisdiction]

	1.	2.
1. Does your jurisdiction's comprehensive plan (or in the case of a tribe or TDHE, a local Indian Housing Plan) include a "housing element? A local comprehensive plan means the adopted official statement of a legislative body of a local government that sets forth (in words, maps, illustrations, and/or tables) goals, policies, and guidelines intended to direct the present and future physical, social, and economic development that occurs within its planning jurisdiction and that includes a unified physical plan for the public development of land and water. If your jurisdiction does not have a local comprehensive plan with a "housing element," please enter no. If no, skip to question # 4.	No__	Yes__
2. If your jurisdiction has a comprehensive plan with a housing element, does the plan provide estimates of current and anticipated housing needs, taking into account the anticipated growth of the region, for existing and future residents, including low-, moderate-, and middle-income families, for at least the next five years?	No__	Yes__

PART A.—LOCAL JURISDICTIONS, COUNTIES EXERCISING LAND USE AND BUILDING REGULATORY AUTHORITY AND OTHER APPLICANTS APPLYING FOR PROJECTS LOCATED IN SUCH JURISDICTIONS OR COUNTIES—Continued

[Collectively, jurisdiction]

	1.	2.
3. Does your zoning ordinance and map, development and subdivision regulations or other land use controls conform to the jurisdiction's comprehensive plan regarding housing needs by providing: (a) sufficient land use and density categories (multifamily housing, duplexes, small lot homes and other similar elements); and (b) sufficient land zoned or mapped "as of right" in these categories, that can permit the building of affordable housing addressing the needs identified in the plan? (For purposes of this notice, "as-of-right," as applied to zoning, means uses and development standards that are determined in advance and specifically authorized by the zoning ordinance. The ordinance is largely self-enforcing because little or no discretion occurs in its administration.) If the jurisdiction has chosen not to have either zoning, or other development controls that have varying standards based upon districts or zones, the applicant may also enter yes.	No <input type="checkbox"/>	Yes <input type="checkbox"/>
4. Does your jurisdiction's zoning ordinance set minimum building size requirements that exceed the local housing or health code or is otherwise not based upon explicit health standards?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
5. If your jurisdiction has development impact fees, are the fees specified and calculated under local or state statutory criteria? If no, skip to question #7.	No <input type="checkbox"/>	Yes <input type="checkbox"/>
6. If yes to question #5, does the statute provide criteria that set standards for the allowable type of capital investments that have a direct relationship between the fee and the development ( <i>nexus</i> ), and a method for fee calculation?	No <input type="checkbox"/>	Yes <input type="checkbox"/>
7. If your jurisdiction has impact or other significant fees, does the jurisdiction provide waivers of these fees for affordable housing?	No <input type="checkbox"/>	Yes <input type="checkbox"/>
8. Has your jurisdiction adopted specific building code language regarding housing rehabilitation that encourages such rehabilitation through graduated regulatory requirements applicable as different levels of work are performed in existing buildings? Such code language increases regulatory requirements (the additional improvements required as a matter of regulatory policy) in proportion to the extent of rehabilitation that an owner/developer chooses to do on a voluntary basis. For further information see HUD publication: "Smart Codes in Your Community: A Guide to Building Rehabilitation Codes" ( <a href="http://www.huduser.org/publications/destech/smartcodes.html">www.huduser.org/publications/destech/smartcodes.html</a> ).	No <input type="checkbox"/>	Yes <input type="checkbox"/>
9. Does your jurisdiction use a recent version ( <i>i.e.</i> published within the last five years or, if no recent version has been published, the last version published) of one of the nationally recognized model building codes ( <i>i.e.</i> the International Code Council (ICC), the Building Officials and Code Administrators International (BOCA), the Southern Building Code Congress International (SBCI), the International Conference of Building Officials (ICBO), the National Fire Protection Association (NFPA)) without significant technical amendment or modification? In the case of a tribe or TDHE, has a recent version of one of the model building codes as described above been adopted or, alternatively, has the tribe or TDHE adopted a building code that is substantially equivalent to one or more of the recognized model building codes? Alternatively, if a significant technical amendment has been made to the above model codes, can the jurisdiction supply supporting data that the amendments do not negatively impact affordability?	No <input type="checkbox"/>	Yes <input type="checkbox"/>
10. Does your jurisdiction's zoning ordinance or land use regulations permit manufactured (HUD-Code) housing "as of right" in all residential districts and zoning classifications in which similar site-built housing is permitted, subject to design, density, building size, foundation requirements, and other similar requirements applicable to other housing that will be deemed realty, irrespective of the method of production?	No <input type="checkbox"/>	Yes <input type="checkbox"/>
11. Within the past five years, has a jurisdiction official ( <i>i.e.</i> , chief executive, mayor, county chairman, city manager, administrator, or a tribally recognized official, etc.), the local legislative body, or planning commission, directly, or in partnership with major private or public stakeholders, convened or funded comprehensive studies, commissions, or hearings, or has the jurisdiction established a formal ongoing process, to review the rules, regulations, development standards, and processes of the jurisdiction to assess their impact on the supply of affordable housing?	No <input type="checkbox"/>	Yes <input type="checkbox"/>
12. Within the past five years, has the jurisdiction initiated major regulatory reforms either as a result of the above study or as a result of information identified in the barrier component of the jurisdiction's "HUD Consolidated Plan?" If yes, attach a brief list of these major regulatory reforms.	No <input type="checkbox"/>	Yes <input type="checkbox"/>
13. Within the past five years has your jurisdiction modified infrastructure standards and/or authorized the use of new infrastructure technologies ( <i>e.g.</i> , water, sewer, street width) to significantly reduce the cost of housing?	No <input type="checkbox"/>	Yes <input type="checkbox"/>
14. Does your jurisdiction give "as-of-right" density bonuses sufficient to offset the cost of building below market units as an incentive for any market rate residential development that includes a portion of affordable housing? (As applied to density bonuses, "as of right" means a density bonus granted for a fixed percentage or number of additional market rate dwelling units in exchange for the provision of a fixed number or percentage of affordable dwelling units and without the use of discretion in determining the number of additional market rate units.)	No <input type="checkbox"/>	Yes <input type="checkbox"/>
15. Has your jurisdiction established a single, consolidated permit application process for housing development that includes building, zoning, engineering, environmental, and related permits? Alternatively, does your jurisdiction conduct concurrent not sequential, reviews for all required permits and approvals?	No <input type="checkbox"/>	Yes <input type="checkbox"/>
16. Does your jurisdiction provide for expedited or "fast track" permitting and approvals for all affordable housing projects in your community?	No <input type="checkbox"/>	Yes <input type="checkbox"/>
17. Has your jurisdiction established time limits for government review and approval or disapproval of development permits in which failure to act, after the application is deemed complete, by the government within the designated time period, results in automatic approval?	No <input type="checkbox"/>	Yes <input type="checkbox"/>
18. Does your jurisdiction allow "accessory apartments" either as: (a) a special exception or conditional use in all single-family residential zones, or (b) "as of right" in a majority of residential districts otherwise zoned for single-family housing?	No <input type="checkbox"/>	Yes <input type="checkbox"/>
19. Does your jurisdiction have an explicit policy that adjusts or waives existing parking requirements for all affordable housing developments?	No <input type="checkbox"/>	Yes <input type="checkbox"/>
20. Does your jurisdiction require affordable housing projects to undergo public review or special hearings when the project is otherwise in full compliance with the zoning ordinance and other development regulations?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Total Points: .....		

PART B—STATE AGENCIES AND DEPARTMENTS OR OTHER APPLICANTS APPLYING FOR PROJECTS LOCATED IN UNINCORPORATED AREAS OR AREAS OTHERWISE NOT COVERED IN PART A

	1.	2.
1. Does your state, either in its planning and zoning enabling legislation or in any other legislation, require localities regulating development have a comprehensive plan with a "housing element?" If no, skip to question # 4	No__	Yes__
2. Does your state require that a local jurisdiction's comprehensive plan estimate current and anticipated housing needs, taking into account the anticipated growth of the region, for existing and future residents, including low-, moderate-, and middle-income families, for at least the next five years?	No__	Yes__
3. Does your state's zoning enabling legislation require that a local jurisdiction's zoning ordinance have: (a) sufficient land use and density categories (multifamily housing, duplexes, small lot homes and other similar elements); and (b) sufficient land zoned or mapped in these categories, that can permit the building of affordable housing that addresses the needs identified in the comprehensive plan?	No__	Yes__
4. Does your state have an agency or office that includes a specific mission to determine whether local governments have policies or procedures that are raising costs or otherwise discouraging affordable housing?	No__	Yes__
5. Does your state have a legal or administrative requirement that local governments undertake periodic self-evaluation of regulations and processes to assess their impact upon housing affordability and undertake actions to address these barriers to affordability?	No__	Yes__
6. Does your state have a technical assistance or education program for local jurisdictions that includes assisting them in identifying regulatory barriers and in recommending strategies to local governments for their removal?	No__	Yes__
7. Does your state have specific enabling legislation for local impact fees? If no, skip to question #9.	No__	Yes__
8. If yes to question #7, does the state statute provide criteria that set standards for the allowable type of capital investments that have a direct relationship between the fee and the development ( <i>nexus</i> ) and a method for fee calculation?	No__	Yes__
9. Does your state provide significant financial assistance to local governments for housing, community development and/or transportation that includes funding prioritization or linking funding on the basis of local regulatory barrier removal activities?	No__	Yes__
10. Does your state have a mandatory state-wide building code that (a) does not permit local technical amendments and (b) uses a recent version ( <i>i.e.</i> , published within the last five years or, if no recent version has been published, the last version published) of one of the nationally recognized model building codes ( <i>i.e.</i> , the International Code Council (ICC), the Building Officials and Code Administrators International (BOCA), the Southern Building Code Congress International (SBCI), the International Conference of Building Officials (ICBO), the National Fire Protection Association (NFPA)) without significant technical amendment or modification? Alternatively, if the state has made significant technical amendments to the model code, can the state supply supporting data that the amendments do not negatively impact affordability?	No__	Yes__
11. Has your state adopted mandatory building code language regarding housing rehabilitation that encourages rehabilitation through graduated regulatory requirements applicable as different levels of work are performed in existing buildings? Such language increases regulatory requirements (the additional improvements required as a matter of regulatory policy) in proportion to the extent of rehabilitation that an owner/developer chooses to do on a voluntary basis and. For further information see HUD publication: "Smart Codes in Your Community: A Guide to Building Rehabilitation Codes" ( <a href="http://www.huduser.org/publications/destech/smartcodes.html">www.huduser.org/publications/destech/smartcodes.html</a> ).	No__	Yes__
12. Within the past five years has your state made any changes to its own processes or requirements to streamline or consolidate the state's own approval processes involving permits for water or wastewater, environmental review, or other state-administered permits or programs involving housing development. If yes, briefly list these changes.	No__	Yes__
13. Within the past five years, has your state ( <i>i.e.</i> , Governor, legislature, planning department) directly or in partnership with major private or public stakeholders, convened or funded comprehensive studies, commissions, or panels to review state or local rules, regulations, development standards, and processes to assess their impact on the supply of affordable housing?	No__	Yes__
14. Within the past five years, has the state initiated major regulatory reforms either as a result of the above study or as a result of information identified in the barrier component of the state's "Consolidated Plan submitted to HUD?" If yes, briefly list these major regulatory reforms.	No__	Yes__
15. Has the state undertaken any other actions regarding local jurisdiction's regulation of housing development including permitting, land use, building or subdivision regulations, or other related administrative procedures? If yes, briefly list these actions.	No__	Yes__
Total Points: .....	_____	_____

To assist NOFA applicants in reviewing their state and local regulatory environments so they can effectively address the questions above that are to be incorporated in all FY2004 NOFAs, the Department recommends visiting HUD's *Regulatory Barriers Clearinghouse (RBC)* at [www.huduser.org/rbc/](http://www.huduser.org/rbc/). This Web site was created to support state, local, and tribal governments and other

organizations seeking information about laws, regulations, and policies affecting the development, maintenance, improvement, availability and cost of affordable housing. To encourage better understanding of the impact of regulatory issues on housing affordability the Web site includes an extensive bibliography of major studies and guidance materials to assist state, local and tribal governments in

fashioning solutions and approaches to expanding housing affordability through regulatory reform at [www.huduser.org/rbc/relevant\\_publications.html](http://www.huduser.org/rbc/relevant_publications.html).

Dated: March 9, 2004.

**A. Bryant Applegate,**  
Senior Counsel and Director of America's Affordable Communities Initiative.

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