

PART XII—ORGANIZATION AND ADMINISTRATION OF DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ACT

[Public Law 89-174; 79 Stat. 667; 42 U.S.C. 3531 et seq.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Department of Housing and Urban Development Act”. [42 U.S.C. 3531 note]

DECLARATION OF PURPOSE

SEC. 2. [42 U.S.C. 3531] The Congress hereby declares that the general welfare and security of the Nation and the health and living standards of our people require, as a matter of national purpose, sound development of the Nation’s communities and metropolitan areas in which the vast majority of its people live and work.

To carry out such purpose, and in recognition of the increasing importance of housing and urban development in our national life, the Congress finds that establishment of an executive department is desirable to achieve the best administration of the principal programs of the Federal Government which provide assistance for housing and for the development of the Nation’s communities; to assist the President in achieving maximum coordination of the various Federal activities which have a major effect upon urban community, suburban, or metropolitan development; to encourage the solution of problems of housing, urban development, and mass transportation through State, county, town, village, or other local and private action, including promotion of interstate, regional, and metropolitan cooperation; to encourage the maximum contributions that may be made by vigorous private homebuilding and mortgage lending industries to housing, urban development, and the national economy; and to provide for full and appropriate consideration, at the national level, of the needs and interests of the Nation’s communities and of the people who live and work in them.

ESTABLISHMENT OF DEPARTMENT

SEC. 3. [42 U.S.C. 3532] (a) There is hereby established at the seat of government an executive department to be known as the Department of Housing and Urban Development (hereinafter referred to as the “Department”). There shall be at the head of the Department a Secretary of Housing and Urban Development (hereinafter referred to as the “Secretary”), who shall be appointed by the President by and with the advice and consent of the Senate.

The Department shall be administered under the supervision and direction of the Secretary.

(b) The Secretary shall, among his responsibilities advise the President with respect to Federal programs and activities relating to housing and urban development; develop and recommend to the President policies for fostering the orderly growth and development of the Nation's urban areas; exercise leadership at the direction of the President in coordinating Federal activities affecting housing and urban development; provide technical assistance and information, including a clearinghouse service to aid State, county, town, village, or other local governments in developing solutions to community and metropolitan development problems; consult and cooperate with State Governors and State agencies, including, when appropriate, holding informal public hearings, with respect to Federal and State programs for assisting communities in developing solutions to community and metropolitan development problems and for encouraging effective regional cooperation in the planning and conduct of community and metropolitan development programs and projects; encourage comprehensive planning by the State and local governments with a view to coordinating Federal, State, and local urban and community development activities; encourage private enterprise to serve as large a part of the Nation's total housing and urban development needs as it can and develop the fullest cooperation with private enterprise in achieving the objectives of the Department; and conduct continuing comprehensive studies, and make available findings, with respect to the problems of housing and urban development.

(c) Nothing in this Act shall be construed to deny or limit the benefits of any program, function, or activity assigned to the Department by this or any other Act to any community on the basis of its population or corporate status, except as may be expressly provided by law.

(d) The Secretary shall—

(1) promote the coordination of all programs under the jurisdiction of the Secretary that are carried on within an enterprise zone designated pursuant to section 701 of the Housing and Community Development Act of 1987;

(2) expedite, to the greatest extent possible, the consideration of applications for programs referred to in paragraph (1) through the consolidation of forms or otherwise; and

(3) provide, whenever possible, for the consolidation of periodic reports required under programs referred to in paragraph (1) into one summary report submitted at such intervals as may be designated by the Secretary.

UNDER SECRETARY AND OTHER OFFICERS AND OFFICES

SEC. 4. [42 U.S.C. 3533] (a) There shall be in the Department a Deputy Secretary,¹ eight Assistant Secretaries², and a general counsel, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time.

(b) There shall be in the Department a Federal Housing Commissioner, who shall be one of the Assistant Secretaries, who shall head a Federal Housing Administration within the Department, who shall have such duties and powers as may be prescribed by the Secretary, and who shall administer, under the supervision and direction of the Secretary, departmental programs relating to the private mortgage market. The Secretary shall ensure, to the extent practicable, that managers of Federal Housing Administration programs, at each level of the Department, shall be accountable for program operation, risk management, management of cash and other Federal assets, and program financing related to activities over which such managers have responsibility.

(c) There shall be in the Department a Director of Urban Program Coordination, who shall be designated by the Secretary. He shall assist the Secretary in carrying out his responsibilities to the President with respect to achieving maximum coordination of the programs of the various departments and agencies of the Government which have a major impact on community development. In providing such assistance, the Director shall make such studies of urban and community problems as the Secretary shall request, and shall develop recommendations relating to the administration of Federal programs affecting such problems, particularly with respect to achieving effective cooperation among the Federal, State, and local agencies concerned. Subject to the direction of the Secretary, the Director shall, in carrying out his responsibilities, (1) establish and maintain close liaison with the Federal departments and agencies concerned, and (2) consult with State, local, and regional officials, and consider their recommendations with respect to such programs.

(d) There shall be in the Department an Assistant to the Secretary, designated by the Secretary, who shall be responsible for providing information and advice to nonprofit organizations desiring to sponsor housing projects assisted under programs administered by the Department.

¹Section 112(a)(4) of the Federal Employees Pay Comparability Act of 1990, which consists of section 529 of Pub. L. 101-509, approved November 5, 1990, replaced "Under Secretary" with "Deputy Secretary". Subsection (b) of such section deemed any reference to the "Under Secretary of Housing and Urban Development" in any statute, reorganization plan, regulation, executive order, or any document issued pursuant thereto in force on the date of enactment of such Act to be a reference to the "Deputy Secretary of Housing and Urban Development".

²Section 215 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Act, 1996 (as contained in section 101(e) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. 104-134) provides as follows:

"EMPLOYMENT LIMITATIONS

"SEC. 215. (a) By the end of fiscal year 1996 the Department of Housing and Urban Development shall employ no more than eight Assistant Secretaries, notwithstanding section 4(a) of the Department of Housing and Urban Development Act.

"(b) By the end of fiscal year 1996 the Department of Housing and Urban Development shall employ no more than 77 schedule C and 20 non-career senior executive service employees."

(e)(1)(A) There shall be in the Department a Special Assistant for Indian and Alaska Native Programs, who shall be located in the Office of the Assistant Secretary for Public and Indian Housing. The Special Assistant for Indian and Alaska Native Programs shall be designated by the Secretary not later than 60 days after the date of enactment of this subsection.

(B) The Special Assistant for Indian and Alaska Native Programs shall be appointed based solely on merit and shall be covered under the provisions of title 5, United States Code, governing appointments in the competitive service.

(C) The Special Assistant for Indian and Alaska Native Programs shall be responsible for—

(i) administering, in coordination with the relevant office in the Department, the provision of housing assistance to Indian tribes or Indian housing authorities under each program of the Department that provides for such assistance;

(ii) administering the community development block grant program for Indian tribes under title I of the Housing and Community Development Act of 1974 and the provision of assistance to Indian tribes under such Act;

(iii) directing, coordinating, and assisting in managing any regional offices of the Department that administer Indian programs to the extent of such programs; and

(iv) coordinating all programs of the Department relating to Indian and Alaska Native housing and community development.

(D) The Secretary shall include in the annual report under section 8 a description of the extent of the housing needs for Indian families and community development needs of Indian tribes in the United States and the activities of the Department, and extent of such activities, in meeting such needs.

(2) The Secretary shall, not later than December 1 of each year, submit to Congress an annual report which shall include—

(A) a description of his actions during the current year and a projection of his activities during the succeeding years;

(B) estimate of the cost of the projected activities for succeeding fiscal years;

(C) a statistical report on the conditions of Indian and Alaska Native housing; and

(D) recommendations for such legislative, administrative, and other actions, as he deems appropriate.

(f) There shall be in the Department a Federal Housing Administration Comptroller, designated by the Secretary, who shall be responsible for overseeing the financial operations of the Federal Housing Administration.¹

¹The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992, Pub. L. 102-139, 105 Stat. 753, provides as follows: "That there shall be established, in the Office of the Secretary, an Office of Lead Based Paint Abatement and Poisoning Prevention to be headed by a career Senior Executive Service employee who shall be responsible for all lead-based paint abatement and poisoning prevention activities (including, but not limited to, research, abatement, training regulations and policy development)".

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, Pub. L. 102-389, 106 Stat. 1593, provides as follows:

"Notwithstanding any other provision of this or any other Act with respect to any fiscal year, the Office of Lead-Based Paint Abatement and Poisoning Prevention shall be contained within

TRANSFERS TO DEPARTMENT

SEC. 5. [42 U.S.C. 3534] (a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to and vested in the Secretary all of the functions, powers, and duties of the Housing and Home Finance Agency, of the Federal Housing Administration and the Public Housing Administration in that Agency, and of the heads, and other officers and offices of said agencies.

(b) The Government National Mortgage Association, together with its functions, powers, and duties, is hereby transferred to the Department. The next to the last sentence of section 308 of the Federal National Mortgage Association Charter Act is hereby repealed.

(c) The President shall undertake studies of the organization of housing and urban development functions and programs within the Federal Government, and he shall provide the Congress with the findings and conclusions of such studies, together with his recommendations regarding the transfer of such functions and programs to or from the Department. Notwithstanding any other provision of this Act, none of the functions of the Secretary of the Interior authorized under the Land and Water Conservation Fund Act of 1965 (78 Stat. 897) or other functions carried out by the Bureau of Outdoor Recreation shall be transferred from the Department of the Interior or in any way be limited geographically unless specifically provided for by reorganization plan pursuant to provisions of the Reorganization Act of 1949 (63 Stat. 203), as amended, or by statute.

(d) Notwithstanding any other provision of this Act, the Secretary may not merge or consolidate the Office of Federal Housing Enterprise Oversight of the Department, or any of the functions or responsibilities of such Office, with any function or program administered by the Secretary.

CONFORMING AMENDMENTS

SEC. 6. (a) Section 19(d)(1) of title 3 of the United States Code is hereby amended by striking out the period at the end thereof and inserting a comma and the following: "Secretary of Health, Education, and Welfare, Secretary of Housing and Urban Development."

[(b) [Repealed.]]¹

(c) The amendment made by subsection (b) of this section shall not be construed to make applicable to the Department any provision of law inconsistent with this Act.

the Office of the Secretary, and said Office shall have ultimate responsibility within the Department of Housing and Urban Development, except for the Secretary, for all matters related to the abatement of lead in housing, and research related to lead abatement, consistent with the responsibilities outlined for the Office in Senate Report 102-107."

¹Section 10(b), of Pub. L. 90-83, 81 Stat. 195, 233, approved Sept. 11, 1967, repealed this subsection, which amended section 158 of the Revised Statutes to include the Department of Housing and Urban Development. However, in section 10(b) of the Department of Transportation Act, Pub. L. 89-670, 80 Stat. 931, 948, approved October 15, 1966, the Department of Housing and Urban Development was included in the recodified section 101 of title 5, United States Code.

ADMINISTRATIVE PROVISIONS

SEC. 7. [42 U.S.C. 3535] (a) The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, or other funds held, used, arising from, or available or to be made available in connection with, the functions, powers, and duties transferred by section 5 of this Act are hereby transferred with such functions, powers, and duties, respectively.

[(b) [Repealed.]]

(c) The Secretary is authorized, subject to the civil service and classification laws, to select, appoint, employ, and fix the compensation of such officers and employees, including attorneys as shall be necessary to carry out the provisions of this Act and to prescribe their authority and duties: *Provided*, That any other provisions of law to the contrary notwithstanding, the Secretary may fix the compensation for not more than six positions in the Department at the annual rate applicable to positions in level V of the Federal Executive Salary Schedule provided by the Federal Executive Salary Act of 1964.

(d) The Secretary may delegate any of his functions, powers, and duties to such officers and employees of the Department as he may designate, may authorize such successive redelegations of such functions, powers, and duties as he may deem desirable, and may make such rules and regulations as may be necessary to carry out his functions, powers, and duties. The second proviso of section 101(c) of the Housing Act of 1949 is hereby repealed.

(e) The Secretary may obtain services as authorized by section 15 of the Act of August 2, 1946, at rates for individuals not to exceed the per diem equivalent to the highest rate for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code. The Secretary is authorized to enter into contracts with private companies for the provision of such managerial support to the Federal Housing Administration as the Secretary determines to be appropriate, including but not limited to the management of insurance risk and the improvement of the delivery of mortgage insurance.

(f) The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interest of economy and efficiency in the Department, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its agencies; central messenger, mail, telephone, and other communications services; office space; central services for document reproduction and for graphics and visual aids; and a central library service. In addition to amounts appropriated to provide capital for said fund, which appropriations are hereby authorized, the fund shall be capitalized by transfer to it of such stocks of supplies and equipment on hand or on order as the Secretary shall direct. Such funds shall be reimbursed from available funds of agencies and offices in the Department for which services are performed at rates which

will return in full all expenses of operation, including reserves for accrued annual leave and for depreciation of equipment.

(g) The Secretary shall cause a seal of office to be made for the Department of such device as he shall approve, and judicial notice shall be taken of such seal.

(h) Except as such authority is otherwise expressly provided in any other Act administered by the Secretary, such financial transactions of the Secretary as the making of loans or grants (and vouchers approved by the Secretary in connection with such financial transactions) shall be final and conclusive upon all officers of the Government. Funds made available to the Secretary pursuant to any provision of law for such financial transactions shall be deposited in a checking account or accounts with the Treasurer of the United States. Such funds and any receipts and assets obtained or held by the Secretary in connection with such financial transactions shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Secretary in connection with such financial transactions. Notwithstanding the provisions of any other law, the Secretary may, with the approval of the Comptroller General, consolidate into one or more accounts for banking and checking purposes all cash obtained or held in connection with such financial transactions, including amounts appropriated, from whatever source derived.

(i) Except as such authority is otherwise expressly provided in any other Act administered by the Secretary, the Secretary is authorized to—

(1) foreclose on any property or commence any action to protect or enforce any right conferred upon him by any law, contract, or other agreement, and bid for and purchase at any foreclosure or any other sale any property in connection with which he has made a loan or grant. In the event of any such acquisition, the Secretary may, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of lease, and otherwise deal with, such property: *Provided*, That any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property: *Provided further*, That section 3709 of the Revised Statutes shall not apply to any contract for services or supplies on account of any property so acquired or owned if the amount of such contract does not exceed \$2,500;

(2) enter into agreements to pay annual sums in lieu of taxes to any State or local taxing authority with respect to any real property so acquired or owned;

(3) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as he may fix;

(4) obtain insurance against loss in connection with property and other assets held;

(5) consent to the modification, with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract or agreement to which he is a party or which has been transferred to him; and

(6) include in any contract or instrument such other covenants, conditions, or provisions as he may deem necessary, including any provisions relating to the authority or requirements under paragraph (5).

(j) Notwithstanding any other provision of law the Secretary is authorized to establish fees and charges, chargeable against program beneficiaries and project participants, which shall be adequate to cover over the long run, costs of inspection, project review and financing service, audit by Federal or federally authorized auditors, and other beneficial rights, privileges, licenses, and services. Such fees and charges heretofore or hereafter collected shall be considered nonadministrative and shall remain available for operating expenses of the Department in providing similar services on a consolidated basis.

(k)(1) The Secretary is authorized to accept and utilize voluntary and uncompensated services and accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequest shall be deposited in the Treasury in a separate fund and shall be disbursed upon order of the Secretary. Property accepted pursuant to this paragraph, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.

(2) For the purpose of Federal income, estate, and gift taxes, property accepted under paragraph (1) shall be considered as a gift or bequest to or for use of the United States.

(3) Upon the request of the Secretary, the Secretary of the Treasury may invest and reinvest in securities of the United States or in securities guaranteed as to principal and interest by the United States any moneys contained in the fund provided for in paragraph (1). Income accruing from such securities and from any other property held by the Secretary pursuant to paragraph (1) shall be deposited to the credit of the fund and shall be disbursed upon order of the Secretary.

(l) The Secretary is authorized to appoint, without regard to the civil service laws, such advisory committees as shall be appropriate for the purpose of consultation with and advice to the Department in performance of its functions. Members of such committees, other than those regularly employed by the Federal Government, while attending meetings of such committees or otherwise serving at the request of the Secretary, may be paid compensation at rates not exceeding those authorized for individuals under subsection (e) of this section, and while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(m) Whenever he shall determine that, because of location, or other considerations, any rental housing project assisted under title II of the National Housing Act or title I of the Housing and Urban Development Act of 1965 could ordinarily be expected substantially to serve the family housing needs of lower income military personnel serving on active duty, the Secretary is authorized to provide for or approve such preference or priority of occupancy of such project by such military personnel as he shall determine is appropriate to assure that the project will serve their needs on a continuing basis notwithstanding the frequency with which individual members of such personnel may be transferred or reassigned to new duty stations.

(n) Notwithstanding any other provision of law, the Secretary is authorized by contract or otherwise to establish, equip, and operate a day care center facility or facilities, or to assist in establishing, equipping, and operating interagency day care facilities for the purpose of serving children who are members of households of employees of the Department. The Secretary is authorized to establish or provide for the establishment of appropriate fees and charges to be chargeable against the Department of Housing and Urban Development employees or others who are beneficiaries of services provided by any such day care center. In addition, limited start-up costs may be provided by the Secretary in an amount limited to 3 per centum of the first year's operating budget, but not to exceed \$3,500.

(o)(1) Notwithstanding any other provision of law, the Secretary shall transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives¹ an agenda of all rules or regulations which are under development or review by the Department. Such an agenda shall be transmitted to such Committees within 30 days of the date of enactment of this subsection and at least semiannually thereafter.

(2)(A) Any rule or regulation which is on any agenda submitted under paragraph (1) may not be published for comment prior to or during the 15-calendar day period beginning on the day after the date on which such agenda was transmitted. If within such period, either Committee notifies the Secretary in writing that it intends to review any rule or regulation or portion thereof which appears on the agenda, the Secretary shall submit to both Committees a copy of any such rule or regulation, in the form it is intended to be proposed, at least 15 calendar days prior to its being published for comment in the Federal Register.

(B) Any rule or regulation which has not been published for comment before the date of enactment of this subsection and which does not appear on an agenda submitted under paragraph (1) shall be submitted to both such Committees at least 15 calendar days prior to its being published for comment.

(3) No rule or regulation may become effective until after the expiration of the 30-calendar day period beginning on the day after

¹Section 1(a) of Public Law 104-14, 109 Stat. 186, provides, in part, that "any reference in any provision of law enacted before January 4, 1995, to . . . the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall be treated as referring to the Committee on Banking and Financial Services of the House of Representatives".

the day on which such rule or regulation is published as final. Any regulation implementing any provision of the Department of Housing and Urban Development Reform Act of 1989 that authorizes the imposition of a civil money penalty may not become effective until after the expiration of a public comment period of not less than 60 days.

(4) The provisions of paragraphs (2) and (3) may be waived upon the written request of the Secretary, if agreed to by the Chairmen and Ranking Minority Members of both Committees.

[(5) [Repealed.]]

[(6) [Repealed.]]

(7) The Secretary shall include with each rule or regulation required to be transmitted to the Committees under this subsection a detailed summary of all changes required by the Office of Management and Budget that prohibit, modify, postpone, or disapprove such rule or regulation in whole or part.

(p) A plan for the reorganization of any regional, area, insuring, or other field office of the Department of Housing and Urban Development may take effect only upon the expiration of 90 days after publication in the Federal Register of a cost-benefit analysis of the effects of the plan on each office involved. Such cost-benefit analysis shall include, but not be limited to—

(1) an estimate of cost savings supported by the background information detailing the source and substantiating the amount of the savings;

(2) an estimate of the additional cost which will result from the reorganization;

(3) a study of the impact on the local economy; and

(4) an estimate of the effect of the reorganization on the availability, accessibility, and quality of services provided for recipients of those services.

Where any of the above factors cannot be quantified, the Secretary shall provide a statement on the nature and extent of those factors in the cost-benefit analysis.

(q)(1) Any waiver of regulations of the Department shall be in writing and shall specify the grounds for approving the waiver.

(2) The Secretary may delegate authority to approve a waiver of a regulation only to an individual of Assistant Secretary rank or equivalent rank, who is authorized to issue the regulation to be waived.

(3) The Secretary shall notify the public of all waivers of regulations approved by the Department. The notification shall be included in a notice in the Federal Register published not less than quarterly. Each notification shall cover the period beginning on the day after the last date covered by the prior notification, and shall—

(A) identify the project, activity, or undertaking involved;

(B) describe the nature of the requirement that has been waived and specify the provision involved;

(C) specify the name and title of the official who granted the waiver request;

(D) include a brief description of the grounds for approval of the waiver; and

(E) state how more information about the waiver and a copy of the request and the approval may be obtained.

(4) Any waiver of a provision of a handbook of the Department shall—

- (A) be in writing;
- (B) specify the grounds for approving the waiver; and
- (C) be maintained in indexed form and made available for public inspection for not less than the 3-year period beginning on the date of the waiver.

(r)(1) For the programs listed in paragraph (2), amounts appropriated under this subsection shall be available to the Secretary for evaluating and monitoring of all such programs (including all aspects of the public housing and section 202 programs) and collecting and maintaining data for such purposes. The Secretary shall expend amounts made available under this subsection in accordance with the need and complexity of evaluating and monitoring each such program and collecting and maintaining data for such purposes.

(2) The programs subject to this subsection shall be the programs authorized under—

- (A) titles I and II¹ of the United States Housing Act of 1937;
- (B) section 202 of the Housing Act of 1959;
- (C) section 106 of the Housing and Urban Development Act of 1968;
- (D) the Fair Housing Act;
- (E) title I and section 810 of the Housing and Community Development Act of 1974;
- (F) section 201 of the Housing and Community Development Amendments of 1978;
- (G) the Congregate Housing Services Act of 1978;
- (H) section 222 of the Housing and Urban-Rural Recovery Act of 1983;
- (I) section 561 of the Housing and Community Development Act of 1987;
- (J) title IV of the Stewart B. McKinney Homeless Assistance Act; and
- (K) titles II, III, and IV and section 811 of the Cranston-Gonzalez National Affordable Housing Act.

(3) In conducting evaluations and monitoring pursuant to the authority under this subsection, and collecting and maintaining data pursuant to the authority under this subsection, the Secretary shall determine any need for additional staff and funding relating to evaluating and monitoring the programs under paragraph (2) and collecting and maintaining data for such purposes.

(4)(A) The Secretary may provide for evaluation and monitoring under this subsection and collecting and maintaining data for such purposes directly or by grants, contracts, or interagency agreements. Not more than 50 percent of the amounts made available under paragraph (1) may be used for grants, contracts, or interagency agreements.

(B) Any amounts not used for grants, contracts, or interagency agreements under subparagraph (A) shall be used in a manner that

¹Section 501(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (P.L. 104-330; 110 Stat. 4041) repealed title II of the United States Housing Act of 1937.

increases and strengthens the ability of the Department to monitor and evaluate the programs under paragraph (2) and to collect and maintain data for such purposes through officers and employees of the Department.

(5) There are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal year 1993 and fiscal year 1994. Such amounts shall remain available until expended.

(s)(1) Notwithstanding any other provision of law, there is authorized to be appropriated for salaries and expenses to carry out the purposes of this section \$988,000,000 for fiscal year 1993 and \$1,029,496,000 for fiscal year 1994.

(2) Of the amounts authorized to be appropriated by this section, \$96,000,000 shall be available for each of the fiscal years 1993 and 1994, which amounts shall be used to provide staff in regional, field, or zone offices of the Department of Housing and Urban Development to review, process, approve, and service applications for mortgage insurance under title II of the National Housing Act for housing consisting of 5 or more dwelling units.

(3) Of the amounts authorized to be appropriated to carry out this section, not less than \$5,000,000 of such amount shall be available for each fiscal year exclusively for the purposes of providing ongoing training and capacity building for Department personnel.

ANNUAL REPORT

SEC. 8. [42 U.S.C. 3536] The Secretary shall, as soon as practicable after the end of each calendar year, make a report to the President for submission to the Congress on the activities of the Department during the preceding calendar year.¹

SAVINGS PROVISIONS

SEC. 9. [42 U.S.C. 3531 note] (a) No cause of action by or against any agency whose functions are transferred by this Act, or by or against any officer of any agency in his official capacity, shall abate by reason of this enactment. Such causes of action may be

¹ See also sections 802 and 817 of the Housing Act of 1954, which are set forth, *post*, this part. Section 166 of the Housing and Community Development Act of 1987, Pub. L. 100-242, provides as follows:

“SEC. 166. ANNUAL REPORT ON CHARACTERISTICS OF FAMILIES IN ASSISTED HOUSING.

“(a) IN GENERAL.—The Secretary of Housing and Urban Development shall include in the annual report under section 8 of the Housing and Urban Development Act descriptions of the characteristics of families assisted under each of the following programs of assistance: public housing, section 8 of the United States Housing Act of 1937 (other than subsection (o) of such section), section 8(o) of the United States Housing Act of 1937, and section 202 of the Housing Act of 1959.

“(b) SPECIFIC REQUIREMENTS.—The descriptions required in subsection (a) shall include information with respect to—

“(1) family size, including the number of children;

“(2) amount and sources of family income;

“(3) the age, race, and sex of family members; and

“(4) whether the head of the family (or the spouse of such person) is a member of the armed forces.

“(c) COLLECTION AND MAINTENANCE OF DATA.—The Secretary shall collect and maintain data necessary to carry out the purposes of this section and shall coordinate such efforts, to the greatest extent possible, with activities and responsibilities under section 8 of the Department of Housing and Urban Development Act.”.

asserted by or against the United States or such official of the Department as may be appropriate.

(b) No suit, action, or other proceeding commenced by or against any agency whose functions are transferred by this Act, or by or against any officer of any such agency in his official capacity, shall abate by reason of the enactment of this Act. A court may at any time during the pendency of the litigation, on its own motion or that of any party, order that the same may be maintained by or against the United States or such official of the Department as may be appropriate.

(c) Except as may be otherwise expressly provided in this Act, all powers and authorities conferred by this Act shall be cumulative and additional to and not in derogation of any powers and authorities otherwise existing. All rules, regulations, orders, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to applicable law, prior to the effective date of this Act, by any agency, officer, or office pertaining to any functions, powers, and duties transferred by this Act shall continue in full force and effect after the effective date of this Act until modified or rescinded by the Secretary or such other officer or office of the Department as, in accordance with applicable law, may be appropriate. With respect to any function, power, or duty transferred by or under this Act and exercised hereafter, reference in another Federal law to the Housing and Home Finance Agency or to any officer, office, or agency therein, except the Federal National Mortgage Association and its officers, shall be deemed to mean the Secretary. The positions and agencies heretofore established by law in connection with the functions, powers, and duties transferred under section 5(a) of this Act shall lapse.

SEPARABILITY

SEC. 10. [42 U.S.C. 3537] Notwithstanding any other evidence of the intent of Congress, it is hereby declared to be the intent of Congress that if any provision of this Act, or the application thereof to any persons or circumstances, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act or its application to other persons and circumstances, but shall be confined in its operation to the provision of this Act, or the application thereof to the persons and circumstances, directly involved in the controversy in which such judgment shall have been rendered.

EFFECTIVE DATE AND INTERIM APPOINTMENTS

SEC. 11. [42 U.S.C. 3531 note] (a) The provisions of this Act shall take effect upon the expiration of the first period of sixty calendar days following the date on which this Act is approved by the President,¹ or on such earlier date as the President shall specify by Executive order published in the Federal Register, except that any of the officers provided for in sections 3(a), 4(a) and 4(b) of this Act may be nominated and appointed, as provided in such sections, at any time after the date this Act is approved by the President.

¹The date of enactment was September 9, 1965.

(b) In the event that one or more officers required by this Act to be appointed, by and with the advice and consent of the Senate, shall not have entered upon office on the effective date of this Act, the President may designate any person who was an officer of the Housing and Home Finance Agency immediately prior to said effective date to act in such office until the office is filled as provided in this Act or until the expiration of the first period of sixty days following said effective date, whichever shall first occur. While so acting such persons shall receive compensation at the rates provided by this Act for the respective offices in which they act.

PROHIBITION OF ADVANCE DISCLOSURE OF FUNDING DECISIONS

SEC. 12. [42 U.S.C. 3537a] (a) PROHIBITED ACTIONS.—During any selection process, no officer or employee of the Department of Housing and Urban Development shall knowingly disclose any covered selection information regarding such selection, directly or indirectly, to any person other than a person authorized by the Secretary to receive such information.

(b) ADMINISTRATIVE REMEDIES.—If the Secretary receives or obtains information providing a reasonable basis to believe that a violation of subsection (a) has occurred, the Secretary shall—

(1) in the case of a selection that has not been made, determine whether to terminate the selection process or take other appropriate actions; and

(2) in the case of a selection that has been made, determine whether to—

(A) void or rescind the selection, subject to review and determination on the record after opportunity for a hearing;

(B) impose sanctions upon the violating applicant selected, subject to review and determination on the record after opportunity for a hearing;

(C) permit the violating applicant selected to continue to participate in the program; or

(D) take any other actions that the Secretary considers appropriate.

(c) CIVIL MONEY PENALTIES.—

(1) IN GENERAL.—Whenever any employee of the Department knowingly and materially violates the prohibition in subsection (a), the Secretary may impose a civil money penalty on the employee in accordance with the provisions of this subsection. This penalty shall be in addition to any other available civil remedy or any available criminal penalty and may be imposed whether or not the Secretary takes other disciplinary actions.

(2) AMOUNT.—The amount of the penalty, as determined by the Secretary, may not exceed \$10,000 for each violation.

(3) AGENCY PROCEDURES.—

(A) ESTABLISHMENT.—The Secretary shall establish standards and procedures governing the imposition of civil money penalties under this subsection. The standards and procedures—

(i) shall provide for the Secretary or other official of the Department to make the determination to im-

pose a penalty or to use an administrative entity to make the determination;

(ii) shall provide for the imposition of a penalty only after the employee has been given an opportunity for a hearing on the record; and

(iii) may provide for review of any determination or order, or interlocutory ruling, arising from a hearing.

(B) FINAL ORDERS.—If no hearing is requested within 15 days of receipt of the notice of opportunity for hearing, the imposition of the penalty shall constitute a final and unappealable order. If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order within 90 days of the issuance of the determination or order, the determination or order shall be final.

(C) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under paragraph (2), consideration shall be given to such factors as the gravity of the offense, any history of prior disclosures of information on pending funding decisions made after the date of enactment of this section, ability to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine in regulations to be appropriate.

(D) REVIEWABILITY OF IMPOSITION OF A PENALTY.—The Secretary's determination or order imposing a penalty under paragraph (1) shall not be subject to review, except as provided in paragraph (4).

(4) JUDICIAL REVIEW OF AGENCY DETERMINATION.—

(A) IN GENERAL.—After exhausting all administrative remedies established by the Secretary under paragraph (3)(A), an employee against whom the Secretary has imposed a civil money penalty under paragraph (1) may obtain a review of the penalty and such ancillary issues (such as any administrative sanctions under 24 C.F.R. part 25) as may be addressed in the notice of determination to impose a penalty under paragraph (3)(A)(i) in the appropriate court of appeals of the United States, by filing in such court, within 20 days after the entry of such order or determination, a written petition praying that the Secretary's order or determination be modified or be set aside in whole or in part.

(B) OBJECTIONS NOT RAISED IN HEARING.—The court shall not consider any objection that was not raised in the hearing conducted pursuant to paragraph (3)(A) unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the court that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at the hearing, the court shall re-

mand the matter to the Secretary for consideration of such additional evidence.

(C) SCOPE OF REVIEW.—The decisions, findings, and determinations of the Secretary shall be reviewed pursuant to section 706 of title 5, United States Code.

(D) ORDER TO PAY PENALTY.—Notwithstanding any other provision of law, in any such review, the court shall have the power to order payment of the penalty imposed by the Secretary.

(5) ACTION TO COLLECT PENALTY.—If any employee fails to comply with the Secretary's determination or order imposing a civil money penalty under paragraph (1), after the determination or order is no longer subject to review as provided by paragraphs (3)(A) and (4), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against the employee and such other relief as may be available. The monetary judgment may, in the court's discretion, include the attorneys' fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the Secretary's determination or order imposing the penalty shall not be subject to review.

(6) SETTLEMENT BY SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this subsection.

(7) DEPOSIT OF PENALTIES.—The Secretary shall deposit all civil money penalties collected under this subsection into miscellaneous receipts of the Treasury.

(d) CRIMINAL PENALTIES.—Whoever willfully violates subsection (a) by making a disclosure prohibited by subsection (a) to any applicant, or any officer, employee, representative, agent, or consultant of any applicant, shall be imprisoned not more than 5 years, or fined in accordance with title 18, United States Code, or both.

(e) DEFINITIONS.—For purposes of this section:

(1) APPLICANT.—The term "applicant" means any applicant or candidate that is being considered for receiving assistance.

(2) ASSISTANCE.—The term "assistance" means any grant, loan, subsidy, guarantee, or other financial assistance under a program administered by the Secretary that provides by statute, regulation, or otherwise for the competitive distribution of such assistance. The term does not include any mortgage insurance provided under a program administered by the Secretary.

(3) COVERED SELECTION INFORMATION.—The term "covered selection information" means—

(A) any information that is contained in any application or request for assistance, or any information regarding the decision of the Secretary to make available assistance or other information that is determined by the Secretary to be information that is not generally available to the public (not including program requirements and timing of the decision to make assistance available); and

(B) any information that is required by statute, regulation, or order to be confidential.

(4) KNOWINGLY.—The term “knowingly” means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

(5) SELECTION.—The term “selection” means the determination of which applicants for assistance are to receive assistance under the program.

(6) SELECTION PROCESS.—The term “selection process” means the period with respect to a selection for assistance that begins with the development, preparation, and issuance of a solicitation or request for applications for the assistance and concludes with the selection of recipients of assistance, and includes the evaluation of applications.

(f) REGULATIONS.—The Secretary shall issue such regulations as the Secretary deems appropriate to implement this section.

(g) APPLICABILITY.—This section shall apply only with respect to violations that occur on or after the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989.

【REGISTRATION OF CONSULTANTS】

【SEC. 13. [Repealed.]】

PROHIBITION OF LUMP-SUM PAYMENTS

SEC. 14. 【42 U.S.C. 3537c】 In providing relocation assistance in connection with any program administered by the Department of Housing and Urban Development, the Secretary may not make lump-sum payments to any displaced residential tenant, except where necessary to cover—

- (1) moving expenses;
- (2) a downpayment on the purchase of a replacement residence, including a condominium unit or membership in a cooperative housing association; or
- (3) any incidental expenses related to paragraph (1) or (2).

HUD ACCOUNTABILITY AND APPLICANT DISCLOSURES

EXCERPT FROM DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REFORM ACT OF 1989

[Public Law 101-235; 103 Stat. 1987; 42 U.S.C. 3545]

SEC. 102. [42 U.S.C. 3545] HUD ACCOUNTABILITY.

(a) NOTICE REGARDING ASSISTANCE.—

(1) PUBLICATION OF NOTICE OF AVAILABILITY.—The Secretary shall publish in the Federal Register notice of the availability of any assistance under any program or discretionary fund administered by the Secretary.

(2) PUBLICATION OF APPLICATION PROCEDURES.—The Secretary shall publish in the Federal Register a description of the form and procedures by which application for the assistance may be made, and any deadlines relating to the award or allocation of the assistance. Such description shall be designed to help eligible applicants to apply for such assistance.

(3) PUBLICATION OF SELECTION CRITERIA.—Not less than 30 days before any deadline by which applications or requests for assistance under any program or discretionary fund administered by the Secretary must be submitted, the Secretary shall publish in the Federal Register the criteria by which selection for the assistance will be made. Subject to section 213 of the Housing and Community Development Act of 1974, such criteria shall include any objective measures of housing need, project merit, or efficient use of resources that the Secretary determines are appropriate and consistent with the statute under which the assistance is made available.

(4) DOCUMENTATION OF DECISIONS.—

(A) The Secretary shall award or allocate assistance only in response to a written application in a form approved in advance by the Secretary, except where other award or allocation procedures are specified in statute.

(B) The Secretary shall ensure that documentation and other information regarding each application for assistance is sufficient to indicate the basis on which any award or allocation was made or denied. The preceding sentence shall apply to—

(i) any application for an award or allocation of assistance made by the Secretary to a State, unit of general local government, or other recipient of assistance, and

(ii) any application for a subsequent award or allocation of such assistance by such State, unit of general local government or other recipient.

(C)(i) The Secretary shall notify the public of all funding decisions made by the Department. The Secretary shall

require any State or unit of general local government to notify the public of the award or allocation of such funding to subsequent recipients. The notification shall include the following elements for each funding decision:

(I) the name and address of each funding recipient;

(II) the name or other means of identifying the project, activity, or undertaking for each funding recipient;

(III) the dollar amount of the funding for each project, activity, or undertaking;

(IV) the citation to the statutory, regulatory, or other criteria under which the funding decision was made; and

(V) such additional information as the Secretary deems appropriate for a clear and full understanding of the funding decision.

(ii) The notification referred to in clause (i) of this subsection shall be published as a Notice in the Federal Register at least quarterly.

(iii) For purposes of this subparagraph, the term “funding decision” means the decision of the Secretary to make available grants, loans, or any other form of financial assistance to an individual or to an entity, including (but not limited to) a State or local government or agency thereof (including a public housing agency), an Indian tribe, or a nonprofit organization, under any program administered by the Department that provides, by statute, regulation, or otherwise, for the competitive distribution of financial assistance.

(D) The Secretary shall publish a notice in the Federal Register at least annually informing the public of the allocation of assistance under section 213(d)(1)(A) of the Housing and Community Development Act of 1974.

(E) The Secretary shall ensure that each application and all related documentation and other information referred to in subparagraph (B), including each letter of support, is readily available for public inspection for a period of not less than 5 years, beginning not less than 30 days following the date on which the award or allocation is made.

(5) EMERGENCY EXCEPTION.—The Secretary may waive the requirements of paragraphs (1), (2), and (3) if the Secretary determines that the waiver is required for appropriate response to an emergency. Not less than 30 days after providing a waiver under the preceding sentence, the Secretary shall publish in the Federal Register the Secretary’s reasons for so doing.

(b) DISCLOSURES BY APPLICANTS.—The Secretary shall require the disclosure of information with respect to any application for assistance within the jurisdiction of the Department for a project application submitted to the Secretary or to any State or unit of general local government by any applicant who has received or, in the determination of the Secretary, can reasonably be expected to receive assistance within the jurisdiction of the Department in excess

of \$200,000 in the aggregate during any fiscal year or such lower amount as the Secretary may establish by regulation. Such information shall include the following:

(1) OTHER GOVERNMENT ASSISTANCE.—Information regarding any related assistance from the Federal Government, a State, or a unit of general local government, or any agency or instrumentality thereof, that is expected to be made available with respect to the project or activities for which the applicant is seeking assistance. Such related assistance shall include but not be limited to any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance.

(2) INTERESTED PARTIES.—The name and pecuniary interest of any person who has a pecuniary interest in the project or activities for which the applicant is seeking assistance. Persons with a pecuniary interest in the project or activity shall include but not be limited to any developers, contractors, and consultants involved in the application for assistance or the planning, development, or implementation of the project or activity. For purposes of this paragraph, residency of an individual in housing for which assistance is being sought shall not, by itself, be considered a pecuniary interest.

(3) EXPECTED SOURCES AND USES.—A report satisfactory to the Secretary of the expected sources and uses of funds that are to be made available for the project or activity.

(c) UPDATING OF DISCLOSURE.—During the period when an application is pending or assistance is being provided, the applicant shall update the disclosure required under the previous subsection within 30 days of any substantial change.

(d) LIMITATION OF ASSISTANCE.—The Secretary shall certify that assistance within the jurisdiction of the Department to any housing project shall not be more than is necessary to provide affordable housing after taking account of assistance described in subsection (b)(1). The Secretary shall adjust the amount of assistance awarded or allocated to an applicant to compensate in whole or in part, as the Secretary determines to be appropriate, for any changes reported under subsection (c).¹

(e) ADMINISTRATIVE REMEDIES.—If the Secretary receives or obtains information providing a reasonable basis to believe that a violation of subsection (b) or (c) has occurred, the Secretary shall—

(1) in the case of a selection that has not been made, determine whether to terminate the selection process or take other appropriate actions; and

(2) in the case of a selection that has been made, determine whether to—

(A) void or rescind the selection, subject to review and determination on the record after opportunity for a hearing;

(B) impose sanctions upon the violator, including debarment, subject to review and determination on the record after opportunity for a hearing;

¹ See section 911 of the Housing and Community Development Act of 1992, Pub. L. 102-550, which is set forth, *post*, this part.

- (C) recapture any funds that have been disbursed;
- (D) permit the violating applicant selected to continue to participate in the program; or
- (E) take any other actions that the Secretary considers appropriate.

The Secretary shall publish in the Federal Register a descriptive statement of each determination made and action taken under this subsection.

(f) CIVIL MONEY PENALTIES.—

(1) IN GENERAL.—Whenever any person knowingly and materially violates any provision of subsection (b) or (c), the Secretary may impose a civil money penalty on that person in accordance with the provisions of this section. This penalty shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed whether or not the Secretary imposes other administrative sanctions.

(2) AMOUNT OF PENALTY.—The amount of the penalty, as determined by the Secretary, may not exceed \$10,000 for each violation.

(g) AGENCY PROCEDURES.—(1) The Secretary shall establish standards and procedures governing the imposition of civil money penalties under subsection (f). These standards and procedures—

(A) shall provide for the Secretary to make the determination to impose the penalty or to use an administrative entity to make the determination;

(B) shall provide for the imposition of a penalty only after the person has been given an opportunity for a hearing on the record; and

(C) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing.

If no hearing is requested within 15 days of receipt of the notice of opportunity for hearing, the imposition of the penalty shall constitute a final and unappealable determination. If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order, the determination or order shall be final.

(2) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under subsection (f), consideration shall be given to such factors as the gravity of the offense, ability to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine in regulations to be appropriate.

(3) REVIEWABILITY OF IMPOSITION OF A PENALTY.—The Secretary's determination or order imposing a penalty under subsection (f) shall not be subject to review, except as provided in subsection (h).

(h) JUDICIAL REVIEW OF AGENCY DETERMINATION.—

(1) IN GENERAL.—After exhausting all administrative remedies established by the Secretary under subsection (g)(1), a person against whom the Secretary has imposed a civil money penalty under subsection (f) may obtain a review of the penalty and such ancillary issues as may be addressed in the notice of

determination to impose a penalty under subsection (g)(1)(A) in the appropriate court of appeals of the United States, by filing in such court, within 20 days after the entry of such order or determination, a written petition praying that the order or determination of the Secretary be modified or be set aside in whole or in part.

(2) **OBJECTIONS NOT RAISED IN HEARING.**—The court shall not consider any objection that was not raised in the hearing conducted pursuant to subsection (g)(1) unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the court that additional evidence not presented at the hearing is material and that there were reasonable grounds for the failure to present such evidence at the hearing, the court shall remand the matter to the Secretary for consideration of such additional evidence.

(3) **SCOPE OF REVIEW.**—The decisions, findings, and determinations of the Secretary shall be reviewed pursuant to section 706 of title 5, United States Code.

(4) **ORDER TO PAY PENALTY.**—Notwithstanding any other provision of law, in any such review, the court shall have the power to order payment of the penalty imposed by the Secretary.

(i) **ACTION TO COLLECT THE PENALTY.**—If any person fails to comply with the determination or order of the Secretary imposing a civil money penalty under subsection (f), after the determination or order is no longer subject to review as provided by subsections (g)(1) and (h), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against the person and such other relief as may be available. The monetary judgment may, in the court's discretion, include the attorneys' fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the Secretary's determination or order imposing the penalty shall not be subject to review.

(j) **SETTLEMENT BY THE SECRETARY.**—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(k) **REGULATIONS.**—The Secretary shall issue such regulations as the Secretary deems appropriate to implement this section.

(l) **DEPOSIT OF PENALTIES.**—The Secretary shall deposit all civil money penalties collected under this section into miscellaneous receipts of the Treasury.

(m) **DEFINITIONS.**—For the purpose of this section—

(1) The term “Department” means the Department of Housing and Urban Development.

(2) The term “Secretary” means the Secretary of Housing and Urban Development.

(3) The term “person” means an individual (including a consultant, lobbyist, or lawyer), corporation, company, association, authority, firm, partnership, society, State, local government, or any other organization or group of people.

(4) The term “assistance within the jurisdiction of the Department” includes any contract, grant, loan, cooperative agreement, or other form of assistance, including the insurance or guarantee of a loan, mortgage, or pool of mortgages.

(5) The term “knowingly” means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

(n) EFFECTIVE DATE.—This section shall take effect on the date specified in regulations implementing this section that are issued by the Secretary after notice and public comment.

SUBSIDY LAYERING REVIEW

EXCERPT FROM HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992

[Public Law 102-550; 106 Stat. 3875; 42 U.S.C. 3545 note]

SEC. 911. [42 U.S.C. 3545 note] SUBSIDY LAYERING REVIEW.

(a) CERTIFICATION OF SUBSIDY LAYERING COMPLIANCE.—The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 may be satisfied in connection with a project receiving assistance under a program that is within the jurisdiction of the Department of Housing and Urban Development and under section 42 of the Internal Revenue Code of 1986 by a certification by a housing credit agency to the Secretary, submitted in accordance with guidelines established by the Secretary, that the combination of assistance within the jurisdiction of the Secretary and other government assistance provided in connection with a property for which assistance is to be provided within the jurisdiction of the Department of Housing and Urban Development and under section 42 of the Internal Revenue Code of 1986 shall not be any greater than is necessary to provide affordable housing.

(b) IN PARTICULAR.—The guidelines established pursuant to subsection (a) shall—

(1) require that the amount of equity capital contributed by investors to a project partnership is not less than the amount generally contributed by investors in current market conditions, as determined by the housing credit agency; and

(2) require that project costs, including developer fees, are within a reasonable range, taking into account project size, project characteristics, project location and project risk factors, as determined by the housing credit agency.

(c) REVOCATION BY SECRETARY.—If the Secretary determines that a housing credit agency has failed to comply with the guidelines established under subsection (a), the Secretary—

(1) may inform the housing credit agency that the agency may no longer submit certification of subsidy layering compliance under this section; and

(2) shall carry out section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 relating to affected projects allocated a low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986.

(d) APPLICABILITY.—Section 102(d) of the Department of Housing and Urban Development Reform Act of 1989¹ (42 U.S.C. 3545(d)) shall apply only to projects for which an application for assistance or insurance was filed after the date of enactment of the

¹ Probably intended to refer to the Department of Housing and Urban Development Reform Act of 1989, approved December 15, 1989, which is set forth *ante*, this part.

Housing and Urban Development Reform Act. [42 U.S.C. 3545
note]

**ENVIRONMENTAL REVIEW REQUIREMENTS FOR HUD
SPECIAL PROJECTS**

**EXCERPT FROM MULTIFAMILY HOUSING PROPERTY DISPOSITION
REFORM ACT OF 1994**

[Public Law 103-233; 108 Stat. 372; 42 U.S.C. 3547]

SEC. 305. ENVIRONMENTAL REVIEW PROVISIONS.

* * * * *

(c) [42 U.S.C. 3547] SPECIAL PROJECTS.—

(1) IN GENERAL.—

(A) RELEASE OF FUNDS.—In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds for special projects appropriated under an appropriations Act for the Department of Housing and Urban Development, such as special projects under the head “Annual Contributions for Assisted Housing” in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, and to assure to the public undiminished protection of the environment, the Secretary of Housing and Urban Development may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for the release of funds for particular special projects upon the request of recipients of special projects assistance, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary specify, that would otherwise apply to the Secretary were the Secretary to undertake such special projects as Federal projects.

(B) IMPLEMENTATION.—The Secretary shall issue regulations to carry out this subsection only after consultation with the Council on Environmental Quality. Such regulations shall—

(i) provide for monitoring of the performance of environmental reviews under this subsection;

(ii) in the discretion of the Secretary, provide for the provision or facilitation of training for such performance; and

(iii) subject to the discretion of the Secretary, provide for suspension or termination by the Secretary of the assumption under subparagraph (A).

(C) RESPONSIBILITIES OF STATE OR UNIT OF GENERAL LOCAL GOVERNMENT.—The Secretary's duty under subparagraph (B) shall not be construed to limit any responsibility assumed by a State or unit of general local government with respect to any particular release of funds under subparagraph (A).

(2) PROCEDURE.—The Secretary shall approve the release of funds for projects subject to the procedures authorized by this subsection only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects, the recipient submits to the Secretary a request for such release, accompanied by a certification of the State or unit of general local government which meets the requirements of paragraph (3). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the releases of funds for special projects to be carried out pursuant thereto which are covered by such certification.

(3) CERTIFICATION.—A certification under the procedures authorized by this subsection shall—

(A) be in a form acceptable to the Secretary;

(B) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;

(C) specify that the State or unit of general local government under this subsection has fully carried out its responsibilities as described under paragraph (1); and

(D) specify that the certifying officer—

(i) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to paragraph (1); and

(ii) is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities as such an official.

(4) APPROVAL BY STATES.—In cases in which a unit of general local government carries out the responsibilities described in paragraph (1), the Secretary may permit the State to perform those actions of the Secretary described in paragraph (2) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of paragraph (2).

PERFORMANCE GOALS FOR HUD

EXCERPT FROM HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992

[Public Law 102-550; 106 Stat. 3884; 42 U.S.C. 3536]

SEC. 925. PERFORMANCE GOALS.

(a) [42 U.S.C. 3536] PERFORMANCE GOALS FOR THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.—

(1) IN GENERAL.—The Secretary of the Department of Housing and Urban Development (hereafter in this Act referred to as the “Secretary”) may establish performance goals for the major programs of the Department of Housing and Urban Development in order to measure progress towards meeting the objectives of national housing policy.

(2) FORM OF GOALS.—The performance goals referred to in paragraph (1) shall be expressed in terms sufficient to measure progress.

(3) REPORT.—The Secretary shall include in the Secretary’s annual report to the Congress a description of the progress made in attaining the performance goals for each program, citing the results achieved in each program for the previous year.

(4) FAILURE TO MEET GOALS.—If a performance standard or goal has not been met, the description under paragraph (3) shall include an explanation of why the goal was not met, propose plans for achieving the performance goal, and recommend any legislative or regulatory changes necessary for achievement of the goal.

(b) PERFORMANCE GOALS FOR THE FARMERS HOME ADMINISTRATION.—¹ * * *

¹ Subsection (b) of this section is set forth in part X of this compilation.

RESEARCH AND DEVELOPMENT PROGRAMS

EXCERPTS FROM HOUSING AND URBAN DEVELOPMENT ACT OF 1970

[Public Law 91-609; 84 Stat. 1784; 12 U.S.C. 1701z-1 et seq.]

TITLE V—RESEARCH AND TECHNOLOGY

RESEARCH AND DEMONSTRATIONS

SEC. 501. [12 U.S.C. 1701z-1] The Secretary of Housing and Urban Development is authorized and directed to undertake such programs of research, studies, testing, and demonstration relating to the mission and programs of the Department as he determines to be necessary and appropriate. There is authorized to be appropriated to carry out this title \$35,000,000 for fiscal year 1993 and \$36,470,000 for fiscal year 1994.

GENERAL PROVISIONS

SEC. 502. [12 U.S.C. 1701z-2] (a) The Secretary shall require, to the greatest extent feasible, the employment of new and improved technologies, methods, and materials in housing construction, rehabilitation, and maintenance under programs administered by him with a view to reducing costs, and shall encourage and promote the acceptance and application of such advanced technology, methods, and materials by all segments of the housing industry, communities, industries engaged in urban development activities, and the general public. To the extent feasible, in connection with the construction, major rehabilitation, or maintenance of any housing assisted under section 501, the Secretary shall assure that there is no restraint by contract, building code, zoning ordinance, or practice against the employment of new or improved technologies, techniques, materials, and methods or of preassembled products which may reduce the cost or improve the quality of such construction, rehabilitation, and maintenance, and therefore stimulate expanded production of housing, except where such restraint is necessary to insure safe and healthful working and living conditions.

(b) To encourage large-scale experimentation in the use of new technologies, methods, and materials, with a view toward the ultimate mass production of housing and related facilities, the Secretary shall wherever feasible conduct programs under section 501 in which qualified organizations, public and private, will submit plans for development and production of housing and related facilities using such new advances on Federal land which has been made available or acquired by the Secretary for the purpose of this subsection or on other land where (1) local building regulations permit such experimental construction, or (2) necessary variances from building regulations can be granted. The Secretary may uti-

lize the funds and authority available to him under the provisions of section 501 to assist in the implementation of plans which he approves.

(c) Notwithstanding any other provision of law, the Secretary is authorized, in connection with projects under this title, to acquire, use and dispose of any land and other property required for the project as he deems necessary. Notwithstanding the provisions of the Federal Property and Administrative Services Act of 1949, any land which is excess property within the meaning of such Act and which is determined by the Secretary to be suitable in furtherance of the purposes of subsection (b) may be transferred to the Secretary upon his request.

(d) In order to effectively carry out his activities under section 501, the Secretary is authorized to provide such advice and technical assistance as may be required and to pay for the cost of writing and publishing reports on activities and undertakings financed under section 501, as well as reports on similar activities and undertakings, not so financed, which are of significant value in furthering the purposes of that section. He may disseminate (without regard to the provisions of section 3204 of title 39, United States Code, or section 4154 of such title with respect to any period before the effective date of such section 3204 as provided in section 15(a) of the Postal Reorganization Act) any reports, data, or information acquired or held under this title, including related data and information otherwise available to the Secretary through the operation of the programs and activities of the Department of Housing and Urban Development, in such form as he determines to be most useful to departments, establishments, and agencies of Federal, State, and local governments, to industry, and to the general public.

(e) The Secretary is authorized to carry out the functions authorized in section 501 either directly or, without regard to section 3709 of the Revised Statutes, by contract or by grant. Advance and progress payments may be made under such contracts or grants without regard to the provisions of subsections (a) and (b) of section 3324 of title 31, United States Code, and such contracts or grants may be made for work to continue for not more than four years from the date thereof.

(f) In carrying out activities under section 501, the Secretary shall utilize to the fullest extent feasible the available facilities of other Federal departments and agencies, and shall consult with, and make recommendations to such departments and agencies. The Secretary may enter into working agreements with such departments and agencies and contract or make grants on their behalf or have such departments and agencies contract or make grants on his behalf and such departments and agencies are hereby authorized to execute such contracts and grants. The Secretary is authorized to make or accept reimbursement for the cost of such activities. The Secretary is further authorized to undertake activities under this title under cooperative agreements with industry and labor, agencies of State or local governments, educational institutions, and other organizations. He may enter into contracts with and receive funds from such agencies, institutions, and organizations, and may exercise any of the other powers vested in him by section 502(c) of the Housing Act of 1948.

(g) The Secretary is authorized to request and receive such information or data as he deems appropriate from private individuals and organizations, and from public agencies. Any such information or data shall be used only for the purposes for which it is supplied, and no publication shall be made by the Secretary whereby the information or data furnished by any particular person or establishment can be identified, except with the consent of such person or establishment.

REPEAL OF EXISTING RESEARCH AUTHORITIES

SEC. 503. Effective July 1, 1971, the following provisions of law are repealed; except that such repeal shall not affect contracts, commitments, reservations, or other obligations entered into pursuant to such provisions prior to that date:

- (1) title III of the Housing Act of 1948;
- (2) section 314 of the Housing Act of 1954;
- (3) section 602 of the Housing Act of 1956;
- (4) section 207 of the Housing Act of 1961;
- (5) section 301 of the Housing and Urban Development Act of 1965;
- (6) sections 1010 and 1011 of the Demonstration Cities and Metropolitan Development Act of 1966; and
- (7) section 1714(b) of the Housing and Urban Development Act of 1968.

HOUSING ALLOWANCES

SEC. 504. [12 U.S.C. 1701z-3] (a) The Secretary is authorized to undertake on an experimental basis programs to demonstrate the feasibility of providing housing allowances payments to assist families in meeting rental or homeownership expenses.

(b)(1) No housing allowance payments shall be made after July 1, 1985. After January 1, 1975, the Secretary shall not enter into contracts under the United States Housing Act of 1937 to carry out the purposes of this section. The Secretary may contract with public or private agencies for the performance of administrative functions in connection with the programs authorized by this section.

(2) Notwithstanding the provisions of paragraph (1), the Secretary shall, to the extent approved in appropriation Acts, extend the annual contributions contracts for the experimental housing allowance supply program through September 30, 1989, on the same terms and conditions as the original contracts, for the sole purpose of providing assistance for homeowners participating in such program on June 1, 1983. In extending such contracts, the Secretary may, to the extent approved in appropriation Acts, use authority available under section 5(c) of the United States Housing Act of 1937.

(c) The Secretary shall report to the Congress on his findings pursuant to this section not later than eighteen months after the enactment of the Housing and Community Development Act of 1974.

DEMONSTRATION WITH RESPECT TO ABANDONED PROPERTIES

SEC. 505. [12 U.S.C. 1701z-4] (a) In carrying out activities under section 501, the Secretary may undertake programs to demonstrate the most feasible means of providing assistance to localities in which a substantial number of structures are abandoned or are threatened with abandonment for the purpose of arresting the process of housing abandonment in its incipiency or in restoring viability to blighted areas in which abandonment is pervasive. For this purpose, the Secretary is authorized to make grants, subject to the limitations of this section, to assist local public bodies in planning and implementing demonstration projects for prompt and effective action in alleviating and preventing such abandonment in designated demonstration areas.

(b) In administering this section, the Secretary shall give preference to those demonstration projects which in his judgement can reasonably be expected to arrest the process of abandonment in the demonstration area within a period of two years and which provide for innovative approaches to combating the problem of housing abandonment. Such projects may include, but shall not be limited to (1) acquisition by negotiated purchase, lease, receivership, tax lien proceedings, or other means authorized by law and satisfactory to the Secretary, of real property within the demonstration area or areas which is abandoned, deteriorated, or in violation of applicable code standards; (2) the repair of streets, sidewalks, parks, playgrounds, publicly owned utilities, public buildings to meet needs consistent with the revitalization and continued use of the area; (3) the demolition of structures determined to be structurally unsound or unfit for human habitation or which contribute adversely to the physical or social environment of the locality involved; (4) the establishment of recreational or community facilities including public playgrounds; (5) the improvement of garbage and trash collection, street cleaning and other essential services necessary to the revitalization and maintenance of the area; (6) the rehabilitation of privately and publicly owned real property by the locality; and (7) the establishment and operation of locally controlled, nonprofit housing management corporations and municipal repair programs.

(c) Subject to such conditions as the Secretary may prescribe, real property held as part of a project assisted under this section may be made available to (1) a limited dividend corporation, nonprofit corporation, or association, cooperative or public body or agency, or other approved purchaser or lessee, or (2) a purchaser who would be eligible for a mortgage insured under section 221(d)(3) or (d)(4), section 221(h)(1), section 235(i) or (i)(1), or section 236 of the National Housing Act, for purchase or lease at fair market value for use by such purchaser or lessee, as, or in the provision of, new or rehabilitated housing for occupancy by families or individuals of low or moderate income.

(d) Grants under this section shall be in amounts which do not exceed 90 per centum of the net project cost as determined by the Secretary. There are authorized to be appropriated for demonstration grants under this section not to exceed \$20,000,000 for the fiscal year ending June 30, 1971. Any amounts appropriated shall remain available until expended and any amount authorized but not

appropriated may be appropriated for any succeeding fiscal year commencing prior to July 1, 1972, Not more than one-third of the aggregate amount of grants made in any fiscal year under this section shall be made with respect to projects undertaken by one locality.

(e) The provisions of sections 106, 114, and 115, of Title I of the Housing Act of 1949, and section 312 of the Housing Act of 1964, may apply to projects assisted under this Act as if such projects were being carried out in urban renewal areas as part of urban renewal projects within the meaning of section 110 of the Housing Act of 1949.

SOLAR ENERGY

SEC. 506. [12 U.S.C. 1701z-5] (a) In carrying out activities under section 501, the Secretary may, after consultation with the National Science Foundation, undertake demonstrations to determine the economic and technical feasibility of utilizing solar energy for heating or cooling residential housing (including demonstration of new housing design or structure involving the use of solar energy). Demonstrations carried out under this section should involve both single family and multifamily housing located in areas having distinguishable climatic characteristics in urban as well as rural environments. To carry out the purpose of this section the Secretary is authorized—

(1) to enter into contracts with, to make grants to, and to provide other types of assistance to individuals and entities with special competence and knowledge to contribute to the planning, design, development, and operation of such housing;

(2) to utilize the contract, loan, or mortgage insurance authority of any federally assisted housing program in the actual planning, development, and occupancy of such housing; and

(3) to set aside any development, construction, design, or occupancy requirements for the purpose of any demonstration under this section if he determines that such requirements inhibit such demonstration.

(b) The Secretary shall include in any demonstration under this section an evaluation of the demonstration to cover the full experience involved in all stages of the demonstration.

ADDITIONAL RESEARCH AUTHORITY

SEC. 507. [12 U.S.C. 1701z-6] (a) In carrying out activities under section 501, the Secretary may undertake special demonstrations to determine the housing design, the housing structure, and the housing-related facilities, and amenities most effective or appropriate to meet the needs of groups with special housing needs including the elderly, the handicapped, the displaced, single individuals, broken families, and large households. For this purpose, the Secretary is authorized to enter into contracts with, to make grants to, and to provide other types of assistance to individuals and entities with special competence and knowledge to contribute to the planning, development, design, and management of such housing.

(b) In carrying out his functions under this section, the Secretary shall give preferential attention to demonstrations which in his judgment involve areas of housing user needs most neglected in past and current research and demonstration efforts.

(c) The Secretary is authorized to undertake demonstrations involving the actual planning, development, and occupancy of housing utilizing the contract and loan authority of any federally assisted housing program. He is also authorized to set aside any development, construction, design, and occupancy requirements, for the purposes of these demonstrations, if in his judgment they inhibit the testing of housing designed to meet the special housing needs.

(d) In carrying out this section, the Secretary shall include, as part of any demonstration, an evaluation of the demonstration to cover the full experience involved in planning, development, and occupancy.

(e) In addition to any other contract or loan authority which the Secretary may utilize under subsection (c), not more than \$10,000,000 from amounts approved in appropriation Acts shall be available for research under this section.

COUNSELING TO MORTGAGORS

SEC. 508. [12 U.S.C. 1701z-7] (a) In carrying out activities under section 501, the Secretary is directed to undertake programs of studies and demonstrations within at least three standard metropolitan statistical areas to determine to the extent of need for and cost effectiveness of providing pre-purchase, default and delinquency counseling and related services to owners and purchasers of single-family dwellings insured or to be insured under the unsubsidized mortgage insurance programs of the National Housing Act.

(b) Within one year from enactment of this section, the Secretary shall submit an interim report to the Congress with respect to the progress made under such studies and demonstrations, including an estimate as to the date when a final report on the results of such demonstrations will be made available to the Congress.

* * * * *

CONVERSIONS

SEC. 510. [12 U.S.C. 1701z-9] In carrying out activities under section 501, the Secretary is authorized to conduct demonstrations to determine the feasibility of expanding homeownership opportunities in urban areas and encouraging the creation and maintenance of decent, safe, and sanitary housing in such areas by utilizing techniques including, but not limited to, the conversion of multifamily housing properties to condominium or cooperative ownership by individuals and families.

REHABILITATION GUIDELINES

SEC. 511. [12 U.S.C. 1701z-10] (a)(1) The Secretary shall develop model rehabilitation guidelines for the voluntary adoption by

States and communities to be used in conjunction with existing building codes by State and local officials in the inspection and approval of rehabilitated properties.

(2) Such guidelines shall be developed in consultation with the National Institute of Building Sciences, appropriate national organizations of agencies and officials of State and local governments, representatives of the building industry, and consumer groups, and other interested parties.

(3) The Secretary shall publish such guidelines for public comment not later than one year after the date of enactment of this section, and promulgate them no later than eighteen months after such date of enactment.

(4) The Secretary may furnish technical assistance to State and local governments to facilitate the use and implementation of such guidelines.

(b) The Secretary shall report to Congress not later than thirty-six months after the date of enactment of this section regarding (1) actions taken by State and local governments to adopt guidelines or their equivalents, and (2) recommendations for further action.

BIENNIAL SURVEY OF ECONOMY AND HOUSING MARKET CONDITIONS

SEC. 512. [12 U.S.C. 1701z-10a] The Secretary shall, not less than biennially, survey national, regional, and local economic and housing market conditions in a manner that provides data comparable to the data collected in such survey conducted in 1981.

ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

EXCERPT FROM HOUSING ACT OF 1948

[Public Law 901, 80th Cong.; 62 Stat. 1283; 12 U.S.C. 1701c and 42 U.S.C. 1404a]

TITLE V—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

ADMINISTRATIVE PROVISIONS

* * * * *

SEC. 502. In carrying out their respective functions, powers, and duties—

(a) [12 U.S.C. 1701c(a)] The Secretary of Housing and Urban Development may appoint such officers and employees as he may find necessary, which appointments shall be subject to the civil service laws and chapter 51 and subchapter III of chapter 53 of title 5, United States Code. The Secretary may make such expenditures as may be necessary to carry out his functions, powers, and duties, and there are hereby authorized to be appropriated to the Secretary, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out such functions, powers, and duties and for administrative expenses in connection therewith. The Secretary, without in any way relieving himself from final responsibility, may delegate any of his functions and powers to such officers, agents, or employees as he may designate, may authorize such successive redelegations of such functions and powers, as he may deem desirable, and may make such rules and regulations as may be necessary to carry out his functions, powers, and duties.

(b) [42 U.S.C. 1404a] The Secretary of Housing and Urban Development may sue and be sued only with respect to its functions under the United States Housing Act of 1937, as amended, and title II of Public Law 671, Seventy-sixth Congress, approved June 28, 1940, as amended. Funds made available for carrying out the functions, powers, and duties of the Secretary of Housing and Urban Development (including appropriations therefor, which are hereby authorized) shall be available in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Secretary of Housing and Urban Development. Notwithstanding any other provisions of law except provisions of law hereafter enacted expressly in limitation hereof, the Secretary of Housing and Urban Development, or any State, or local public agency administering a low-rent housing project assisted pursuant to the United States Housing Act of 1937 or title II of Public Law 671, Seventy-sixth Congress, approved June 28, 1940, shall continue to have the right to maintain an action or proceeding to re-

cover possession of any housing accommodations operated by it where such action is authorized by the statute or regulations under which such housing accommodations are administered, and, in determining net income for the purposes of tenant eligibility with respect to low-rent housing projects assisted pursuant to said Acts, the Secretary of Housing and Urban Development is authorized, where it finds such action equitable and in the public interest, to exclude amounts or portions thereof paid by the United States Government for disability or death occurring in connection with military service.

(c) [12 U.S.C. 1701c] The Secretary of Housing and Urban Development and the Director of the Office of Thrift Supervision, respectively, may, in addition to and not in derogation of any powers and authorities conferred elsewhere in this Act—

(1) with the consent of the agency or organization concerned, accept and utilize equipment, facilities, or the services of employees of any Federal, State, or local public agency or instrumentality, educational institution, or nonprofit agency or organization and, in connection with the utilization of such services, may make payments for transportation while away from their homes or regular places of business and per diem in lieu of subsistence en route and at place of such service, in accordance with the provisions of section 5703 of title 5, United States Code;

(2) utilize, contract with, and act through, without regard to section 3709 of the Revised Statutes, any Federal, State, or local public agency or instrumentality, educational institution or nonprofit agency or organization with the consent of the agency or organization concerned, and any funds available to said officers for carrying out their respective functions, powers, and duties shall be available to reimburse or pay any such agency or organization; and, whenever in the judgment of any such officer necessary, he may make advance, progress, or other payments with respect to such contracts without regard to the provisions of subsections (a) and (b) of section 3324 of title 31, United States Code; and

(3) make expenditures for all necessary expenses, including preparation, mounting, shipping, and installation of exhibits; purchase and exchange of technical apparatus; and such other expenses as may, from time to time, be found necessary in carrying out their respective functions, powers, and duties: *Provided*, That funds made available for administrative expenses in carrying out the functions, powers, and duties imposed upon the Secretary of Housing and Urban Development and the Federal Home Loan Bank Board, respectively, by or pursuant to law may at their option be consolidated into single administrative expense fund accounts of such officer or agency for expenditure by them, respectively, in accordance with the provisions hereof.

(d) [12 U.S.C. 1701c(d)] The Secretary of Housing and Urban Development may utilize funds made available to him for salaries and expenses for payment in advance for dues or fees for library memberships in organizations (or for membership of the individual librarians in organizations which will not accept library member-

ship) whose publications are available to members only, or to members at a price lower than to the general public, and for payment in advance for publications available only upon that basis or available at a reduced price on prepublication order.

**SPECIAL ASSISTANT COMMISSIONER FOR
COOPERATIVE HOUSING**

EXCERPT FROM HOUSING AMENDMENTS OF 1955

[Public Law 345, 84th Cong.; 69 Stat. 636; 12 U.S.C. 1715e note]

SEC. 102. * * *

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(h) **[12 U.S.C. 1715e note]** In the performance of, and with respect to, the functions powers, and duties vested in him by section 213 of the National Housing Act, section 221(d)(3), section 235, section 236, section 241, section 243, section 246, and section 203(n) of the National Housing Act, and section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act of 1937 (insofar as the provisions of such sections relate to cooperative housing), the Secretary of Housing and Urban Development, notwithstanding the provisions of any other law, shall appoint a Special Assistant for Cooperative Housing, and provide the Special Assistant with adequate staff, whose sole responsibility will be to expedite operations under such sections and to eliminate obstacles to the full utilization of such sections under the direction and supervision of the Commissioner and Assistant Secretary for Housing Management. The person so appointed shall be fully sympathetic with the purposes of such sections.

HUD ANNUAL REPORT

EXCERPTS FROM HOUSING ACT OF 1954

[Public Law 560, 83d Congress; 68 Stat. 642; 12 U.S.C. 1701o et seq.]

ANNUAL REPORT OF SECRETARY

SEC. 802.¹ [12 U.S.C. 1701o] (a) The Secretary of Housing and Urban Development shall, as soon as practicable during each calendar year, make a report to the President for submission to the Congress on all operations and programs (including but not limited to the insurance, urban renewal, public housing, and rent supplement programs) under the jurisdiction of the Department of Housing and Urban Development during the previous calendar year. Such report shall contain recommendations for strengthening or improving such programs, or, when necessary to implement more effectively Congressional policies and purposes, for establishing new or alternative programs.

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REPORT TO CONGRESS OF INFORMATION ON HOUSING

SEC. 817. [12 U.S.C. 1701p] The annual report made by the Secretary of Housing and Urban Development to the President for submission to the Congress on all operations provided for by section 802 hereof shall contain pertinent information with respect to all projects for which any loan, contribution, or grant has been made by the Department of Housing and Urban Development, including the amount of loans, contributions and grants contracted for.

¹See also section 8 of the Department of Housing and Urban Development Act, which is set forth, *ante*, this part.

SEMIANNUAL REPORT ON CONTRACTS

EXCERPT FROM 1997 EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT FOR RECOVERY FROM NATURAL DISASTERS, AND FOR OVER- SEAS PEACEKEEPING EFFORTS, INCLUDING THOSE IN BOSNIA

[Public Law 105-18; 111 Stat. 201; 42 U.S.C. 3548]

SEC. 10001. **[42 U.S.C. 3548]** The Secretary shall submit semi-annually to the Committees on Appropriations a list of all contracts and task orders issued under such contracts in excess of \$250,000 which were entered into during the prior 6-month period by the Secretary, the Government National Mortgage Association, and the Office of Federal Housing Enterprise Oversight (or by any officer of the Department of Housing and Urban Development, the Government National Mortgage Association, or the Office of Federal Housing Enterprise Oversight acting in his or her capacity to represent the Secretary or these entities). Each listing shall identify the parties to the contract, the term and amount of the contract, and the subject matter and responsibilities of the parties to the contract.

IMPROVED ARCHITECTURAL DESIGN

EXCERPT FROM HOUSING AND URBAN DEVELOPMENT ACT OF 1968

[Public Law 90-448; 82 Stat. 477; 12 U.S.C. 1701v]

IMPROVED ARCHITECTURAL DESIGN IN GOVERNMENT HOUSING PROGRAMS

SEC. 4. [12 U.S.C. 1701v] The Congress finds that Federal aids to housing have not contributed fully to improvement in architectural standards. This objective has been contemplated in Federal housing legislation since the establishment of mortgage insurance through the Federal Housing Administration.

The Congress commends the Department of Housing and Urban Development for its recent efforts to improve architectural standards through competitive design awards and in other ways but at the same time recognizes that this important objective requires high priority if Federal aid is to make its full community-wide contribution toward improving our urban environment.

The Congress further finds that even within the necessary budget limitations on housing for low and moderate income families architectural design could be improved not only to make the housing more attractive, but to make it better suited to the needs of occupants.

The Congress declares that in the administration of housing programs which assist in the provision of housing for low and moderate income families, emphasis should be given to encouraging good design as an essential component of such housing and to developing housing which will be of such quality as to reflect its important relationship to the architectural standards of the neighborhood and community in which it is situated, consistent with prudent budgeting.

PAPERWORK REDUCTION

EXCERPTS FROM HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1978

[Public Law 95-557; 92 Stat. 2126; 42 U.S.C. 3541]

PAPERWORK REDUCTION

SEC. 905. [42 U.S.C. 3541] (a) The Congress finds and declares—

(1) that various departments, agencies, and instrumentalities of the Federal Government with responsibilities involving housing and housing finance programs, require, approve, use or otherwise employ a variety of different forms as residential mortgages (or deeds of trust or similar security instruments) as notes secured by those mortgages, and for applications, appraisals and other purposes, and that such duplication of forms constitute a paperwork burden that adds to the costs imposed on the Nation's homeowners and home buyers;

(2) that unnecessary paperwork impairs the effectiveness of Federal housing and housing finance programs;

(3) that both single-family and multi-family programs are affected; and

(4) that simplification of paperwork imposed by Federal housing and housing finance programs would contribute to achieving the Nation's housing goals by reducing housing costs.

(b)(1) Not later than October 1, 1980, the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Secretary of Veterans Affairs shall, consistent with provisions of law governing the conduct of housing programs, employ in their respective programs—

(A) uniform single-family and multi-family note and mortgage form;

(B) a uniform application form for mortgage approval and commitment for mortgage insurance;

(C) a uniform form for computation of the monthly net effective income of applicants;

(D) a uniform property appraisal form;

(E) a uniform settlement statement which shall satisfy the requirements of the Real Estate Settlement Procedures Act of 1974; and

(F) such other consolidated or simplified forms particularly those which solicit identical or nearly identical information from the same persons in the conduct of two or more such programs, the consolidation or simplification of which the Secretaries of Housing and Urban Development and Agriculture and the Secretary of Veterans Affairs mutually agree would

contribute to a reduction in the paperwork and regulatory burden of such programs.

(2) The Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Secretary of Veterans Affairs shall, consistent with provisions of law governing their respective programs, provide by regulation for the elimination of forms which solicit information which is already available for other available sources through indexing or other means of identifying such forms.

(3) Each agency referred to in subsection (b) may employ riders, addenda, or similar forms of modification agreements to adapt such uniform forms to its respective programs and policies, consistent with the goals of minimizing the use and extent of such modification agreements and maximizing the suitability of such forms for the use of all participants, public and private.

(c) The Director of the Office of Management and Budget shall coordinate and monitor the development and implementation by Federal departments and agencies of the efforts required by subsection (b) and shall report to the Congress on such development and implementation and with respect to any provisions of law which unnecessarily prevent such departments and agencies from carrying out the provisions of this section as part of each report required under Public Law 93-556. Such report shall include an estimate of the reduction of the level of paperwork burden hours of the affected agencies as allocated by the Office of Management and Budget.

**RECORDS AND AUDITS REQUIRED IN CONNECTION
WITH LOANS, ADVANCES, GRANTS, OR CONTRIBU-
TIONS (BYRD AMENDMENT)**

EXCERPT FROM HOUSING ACT OF 1954

[Public Law 560, 83d Congress; 68 Stat. 647; 42 U.S.C. 1434]

RECORDS

SEC. 814. [42 U.S.C. 1434] Every contract between the Department of Housing and Urban Development and any person or local body (including any corporation or public or private agency or body) for a loan, advance, grant, or contribution under the United States Housing Act of 1937, as amended, the Housing Act of 1949, as amended, or any other Act shall provide that such person or local body shall keep such records as the Department of Housing and Urban Development shall from time to time prescribe, including records which permit a speedy and effective audit and will fully disclose the amount and disposition by such person or local body of the proceeds of the loan, advance, grant, or contribution, or any supplement thereto, the capital cost of any construction project for which any such loan, advance, grant, or contribution is made, and the amount of any private or other non-Federal funds used or grants-in-aid made for or in connection with any such project. No mortgage covering new or rehabilitated multifamily housing (as defined in section 227 of the National Housing Act, as amended) shall be insured unless the mortgagor certifies that he will keep such records as are prescribed by the Secretary of Housing and Urban Development at the time of the certification and that they will be kept in such form as to permit a speedy and effective audit. The Department of Housing and Urban Development and the Comptroller General of the United States shall have access to and the right to examine and audit such records. This section shall become effective on the first day after the first full calendar month following the date of approval of the Housing Act of 1961.

FRAUD AND FALSE STATEMENTS

EXCERPTS FROM TITLE 18, UNITED STATES CODE

§ 1001. Statements or entries generally

(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully—

(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

(2) makes any materially false, fictitious, or fraudulent statement or representation; or

(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be fined under this title or imprisoned not more than 5 years, or both.

(b) Subsection (a) does not apply to a party to a judicial proceeding, or that party's counsel, for statements, representations, writings or documents submitted by such party or counsel to a judge or magistrate in that proceeding.

(c) With respect to any matter within the jurisdiction of the legislative branch, subsection (a) shall apply only to—

(1) administrative matters, including a claim for payment, a matter related to the procurement of property or services, personnel or employment practices, or support services, or a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch; or

(2) any investigation or review, conducted pursuant to the authority of any committee, subcommittee, commission or office of the Congress, consistent with applicable rules of the House or Senate.

* * * * *

§ 1010. Department of Housing and Urban Development and Federal Housing Administration transactions

Whoever, for the purpose of obtaining any loan or advance of credit from any person, partnership, association, or corporation with the intent that such loan or advance of credit shall be offered to or accepted by the Department of Housing and Urban Development for insurance, or for the purpose of obtaining any extension or renewal of any loan, advance of credit, or mortgage insured by such department, or the acceptance, release, or substitution of any security on such a loan, advance of credit, or for the purpose of influencing in any way the action of such Department, makes,

passes, utters, or publishes any statement, knowing the same to be false, or alters, forges, or counterfeits any instrument, paper, or document, or utters, publishes, or passes as true any instrument, paper, or document, knowing it to have been altered, forged, or counterfeited, or willfully overvalues any security, asset, or income, shall be fined under this title or imprisoned not more than two years, or both.

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§ 1012. Department of Housing and Urban Development transactions

Whoever, with intent to defraud, makes any false entry in any book of the Department of Housing and Urban Development or makes any false report or statement to or for such Department; or

Whoever receives any compensation, rebate, or reward, with intent to defraud such Department or with intent unlawfully to defeat its purposes; or

Whoever induces or influences such Department to purchase or acquire any property or to enter into any contract and willfully fails to disclose any interest which he has in such property or in the property to which such contract relates, or any special benefit which he expects to receive as a result of such contract—

Shall be fined under this title or imprisoned not more than one year, or both.

OBSTRUCTION OF JUSTICE

EXCERPT FROM TITLE 18, UNITED STATES CODE

[Public Law 100-690; 102 Stat. 4406]

§ 1516. Obstruction of Federal audit

(a) Whoever, with intent to deceive or defraud the United States, endeavors to influence, obstruct, or impede a Federal auditor in the performance of official duties relating to a person receiving in excess of \$100,000, directly or indirectly, from the United States in any 1 year period under a contract or subcontract, or relating to any property that is security for a mortgage note that is insured, guaranteed, acquired, or held by the Secretary of Housing and Urban Development pursuant to any Act administered by the Secretary, shall be fined under this title, or imprisoned not more than 5 years, or both.

(b) For purposes of this section—

(1) the term “Federal auditor” means any person employed on a full- or part-time or contractual basis to perform an audit or a quality assurance inspection for or on behalf of the United States; and

(2) the term “in any 1 year period” has the meaning given to the term “in any one-year period” in section 666.

INTERNATIONAL HOUSING AND URBAN DEVELOPMENT

EXCERPT FROM HOUSING ACT OF 1957

[Public Law 85-104, 85th Congress; 71 Stat. 305; 12 U.S.C. 1701d-4]

EXCHANGE OF DATA

SEC. 604. [12 U.S.C. 1701d-4] (a) The Secretary of Housing and Urban Development may exchange data relating to housing and urban planning and development with other nations and assemble such data from other nations, through participation in international conferences and other means, where such exchange or assembly is deemed by him to be beneficial in carrying out his responsibilities under the Department of Housing and Urban Development Act or other legislation. In carrying out his responsibilities under this subsection the Secretary may—

(1) pay the expenses of participation in activities conducted under authority of this section including, but not limited to, the compensation, travel expenses, and per diem in lieu of subsistence of persons serving in an advisory capacity while away from their homes or regular places of business in connection with attendance at international meetings and conferences or other travel for the purpose of exchange or assembly of data relating to housing and urban planning and development; but such travel expenses shall not exceed those authorized for regular officers and employees traveling in connection with said activities; and

(2) accept from international organizations, foreign countries, and private nonprofit foundations, funds, services, facilities, materials, and other donations to be utilized jointly in carrying out activities under this section.

(b) International programs and activities carried out by the Secretary under the authority provided in subsection (a) shall be subject to the approval of the Secretary of State for the purpose of assuring that such authority shall be exercised in a manner consistent with the foreign policy of the United States.

ECONOMIC OPPORTUNITIES FOR LOW-INCOME PERSONS

EXCERPT FROM HOUSING AND URBAN DEVELOPMENT ACT OF 1968

[Public Law 102-550; 106 Stat. 3878; 12 U.S.C. 1701u]

SEC. 3. [12 U.S.C. 1701u] ECONOMIC OPPORTUNITIES FOR LOW- AND VERY LOW-INCOME PERSONS.

(a) **FINDINGS.**—The Congress finds that—

(1) Federal housing and community development programs provide State and local governments and other recipients of Federal financial assistance with substantial funds for projects and activities that produce significant employment and other economic opportunities;

(2) low- and very low-income persons, especially recipients of government assistance for housing, often have restricted access to employment and other economic opportunities;

(3) the employment and other economic opportunities generated by projects and activities that receive Federal housing and community development assistance offer an effective means of empowering low- and very low-income persons, particularly persons who are recipients of government assistance for housing; and

(4) prior Federal efforts to direct employment and other economic opportunities generated by Federal housing and community development programs to low- and very low-income persons have not been fully effective and should be intensified.

(b) **POLICY.**—It is the policy of the Congress and the purpose of this section to ensure that the employment and other economic opportunities generated by Federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing.

(c) **EMPLOYMENT.**—

(1) **PUBLIC AND INDIAN HOUSING PROGRAM.**—

(A) **IN GENERAL.**—The Secretary shall require that public and Indian housing agencies, and their contractors and subcontractors, make their best efforts, consistent with existing Federal, State, and local laws and regulations, to give to low- and very low-income persons the training and employment opportunities generated by development assistance provided pursuant to section 5 of the United States Housing Act of 1937, operating assistance provided pursuant to section 9 of that Act, and modernization grants provided pursuant to section 14 of that Act.

(B) PRIORITY.—The efforts required under subparagraph (A) shall be directed in the following order of priority:

(i) To residents of the housing developments for which the assistance is expended.

(ii) To residents of other developments managed by the public or Indian housing agency that is expending the assistance.

(iii) To participants in Youthbuild programs receiving assistance under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act.

(iv) To other low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.

(2) OTHER PROGRAMS.—

(A) IN GENERAL.—In other programs that provide housing and community development assistance, the Secretary shall ensure that, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the project is located.

(B) PRIORITY.—Where feasible, priority should be given to low- and very low-income persons residing within the service area of the project or the neighborhood in which the project is located and to participants in Youthbuild programs receiving assistance under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act.

(d) CONTRACTING.—

(1) PUBLIC AND INDIAN HOUSING PROGRAM.—

(A) IN GENERAL.—The Secretary shall require that public and Indian housing agencies, and their contractors and subcontractors, make their best efforts, consistent with existing Federal, State, and local laws and regulations, to award contracts for work to be performed in connection with development assistance provided pursuant to section 5 of the United States Housing Act of 1937, operating assistance provided pursuant to section 9 of that Act, and modernization grants provided pursuant to section 14 of that Act, to business concerns that provide economic opportunities for low- and very low-income persons.

(B) PRIORITY.—The efforts required under subparagraph (A) shall be directed in the following order of priority:

(i) To business concerns that provide economic opportunities for residents of the housing development for which the assistance is provided.

(ii) To business concerns that provide economic opportunities for residents of other housing develop-

ments operated by the public and Indian housing agency that is providing the assistance.

(iii) To Youthbuild programs receiving assistance under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act.

(iv) To business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is provided.

(2) OTHER PROGRAMS.—

(A) IN GENERAL.—In providing housing and community development assistance pursuant to other programs, the Secretary shall ensure that, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, contracts awarded for work to be performed in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.

(B) PRIORITY.—Where feasible, priority should be given to business concerns which provide economic opportunities for low- and very low-income persons residing within the service area of the project or the neighborhood in which the project is located and to Youthbuild programs receiving assistance under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act.

(e) DEFINITIONS.—For the purposes of this section the following definitions shall apply:

(1) LOW- AND VERY LOW-INCOME PERSONS.—The terms “low-income persons” and “very low-income persons” have the same meanings given the terms “low-income families” and “very low-income families”, respectively, in section 3(b)(2) of the United States Housing Act of 1937.

(2) BUSINESS CONCERN THAT PROVIDES ECONOMIC OPPORTUNITIES.—The term “a business concern that provides economic opportunities” means a business concern that—

(A) provides economic opportunities for a class of persons that has a majority controlling interest in the business;

(B) employs a substantial number of such persons; or

(C) meets such other criteria as the Secretary may establish.

(f) COORDINATION WITH OTHER FEDERAL AGENCIES.—The Secretary shall consult with the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Commerce, the Administrator of the Small Business Administration, and such other Federal agencies as the Secretary determines are necessary to carry out this section.

(g) REGULATIONS.—Not later than 180 days after the date of enactment of the National Affordable Housing Act Amendments of

1992,¹ the Secretary shall promulgate regulations to implement this section.

¹Probably intended to refer to the Housing and Community Development Act of 1992, Pub. L. 102-550, approved October 28, 1992.

**NOTICE AND COMMENT FOR DEMONSTRATION
PROGRAMS**

EXCERPT FROM HOUSING AND URBAN-RURAL RECOVERY ACT OF 1983

[Public Law 98-181; 97 Stat. 1237; 42 U.S.C. 3542]

**PUBLIC NOTICE AND COMMENT REGARDING DEPARTMENT
DEMONSTRATION PROGRAMS**

SEC. 470. **[42 U.S.C. 3542]** (a) No demonstration program not expressly authorized in law may be commenced by the Secretary of Housing and Urban Development until (1) a description of such demonstration program is published in the Federal Register, which description may be included in a notice of funding availability; and (2) there expires a period of sixty calendar days following the date of such publication, during which period the Secretary shall fully consider any public comments submitted with respect to such demonstration program.

(b) Nothing in this section may be considered to authorize the conducting of any demonstration program by the Secretary of Housing and Urban Development.

PREVENTING FRAUD AND ABUSE

EXCERPT FROM HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987

[Public Law 100-242; 101 Stat. 1864; 42 U.S.C. 3543]

SEC. 165. [42 U.S.C. 3543] PREVENTING FRAUD AND ABUSE IN DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PROGRAMS.

(a) DISCLOSURE OF SOCIAL SECURITY ACCOUNT NUMBER.—As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban Development involving loans, grants, interest or rental assistance of any kind, or mortgage or loan insurance, and to ensure that the level of benefits provided under such programs is proper, the Secretary of Housing and Urban Development may require that an applicant or participant (including members of the household of an applicant or participant) disclose his or her social security account number or employer identification number to the Secretary.

(b) DEFINITIONS.—For purposes of this section, the terms “applicant” and “participant” shall have such meanings as the Secretary of Housing and Urban Development by regulation shall prescribe. Such terms shall not include persons whose involvement is only in their official capacity, such as State or local government officials or officers of lending institutions.

EXCERPT FROM STEWART B. MCKINNEY HOMELESS ASSISTANCE AMENDMENTS ACT OF 1988

[Public Law 100-628; 102 Stat. 3259; 42 U.S.C. 3544]

SEC. 904. [42 U.S.C. 3544] PREVENTING FRAUD AND ABUSE IN HOUSING AND URBAN DEVELOPMENT PROGRAMS.

(a) DEFINITIONS.—As used in this section:

(1) SECRETARY.—The term “Secretary” means the Secretary of Housing and Urban Development.

(2) APPLICANT; PARTICIPANT.—The terms “applicant” and “participant” shall have such meanings as the Secretary by regulation shall prescribe, except that such terms shall include members of an applicant’s or participant’s household, and such terms shall not include persons whose involvement is only in their official capacity, such as State or local government officials and officers of lending institutions.

(3) PUBLIC HOUSING AGENCY.—The term “public housing agency” means any agency described in section 3(b)(6) of the United States Housing Act of 1937.

(4) PROGRAM OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.—The term “program of the Department of Housing and Urban Development” includes Indian housing

programs assisted under title II of the United States Housing Act of 1937¹.

(b) **APPLICANT AND PARTICIPANT CONSENT.**—As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban Development involving initial and periodic review of an applicant's or participant's income, and to assure that the level of benefits provided under the program is correct, the Secretary may require that an applicant or participant—

(1) sign a consent form approved by the Secretary authorizing the Secretary, the public housing agency, or the owner responsible for determining eligibility for or level of benefits to request current or previous employers to verify salary and wage information pertinent to the applicant's or participant's eligibility or level of benefits;

(2) sign a consent form approved by the Secretary authorizing the Secretary or the public housing agency responsible for determining eligibility or level of benefits to request a State agency charged with the administration of the State unemployment law to release wage information with respect to such applicant or participant or information regarding whether such applicant or participant is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received (or to be received) by such applicant or participant;

(3) sign a consent form approved by the Secretary authorizing the Secretary to request the Commissioner of Social Security and the Secretary of the Treasury to release information pursuant to section 6103(1)(7)(D)(ix) of the Internal Revenue Code of 1986 with respect to such applicant or participant for the sole purpose of the Secretary verifying income information pertinent to the applicant's or participant's eligibility or level of benefits; and

(4)² only in the case of an applicant or participant that is a member of a family described in section 3(f)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(f)(2)), sign an agreement under which the applicant or participant agrees to provide to the appropriate public housing agency the information required under section 3(f)(1) of such Act for the sole purpose of the public housing agency verifying income information pertinent to the applicant's or participant's eligibility or level of benefits, and comply with such agreement.

Except as provided in this subsection, this consent form shall not be used to request taxpayer return information protected by section 6103 of the Internal Revenue Code of 1986.

(c)³ **ACCESS TO RECORDS.**—

¹Section 501(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (P.L. 104-330; 110 Stat. 4041) repealed title II of the United States Housing Act of 1937.

²This paragraph was added by section 508(d)(2)(A)(ii) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105-276, approved October 21, 1998. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment (and, therefore, the new paragraph is shown), but applies beginning upon October 1, 1999.

³This subsection was amended by section 508(d)(2)(B) of the Quality Housing and Work Responsibility Act of 1998, title V of Public Law 105-276, approved October 21, 1998, to include references in paragraphs (2)(A) and (3) to section 3(d)(1) of the United States Housing Act of

(1) AMENDMENTS TO SOCIAL SECURITY ACT.—(A) Section 303 of the Social Security Act (42 U.S.C. 503) is amended by adding at the end the following new subsection:

“(i)¹(1) The State agency charged with the administration of the State law—

“(A) shall disclose, upon request and on a reimbursable basis, only to officers and employees of the Department of Housing and Urban Development and to representatives of a public housing agency, any of the following information contained in the records of such State agency with respect to individuals applying for or participating in any housing assistance program administered by the Department who have signed an appropriate consent form approved by the Secretary of Housing and Urban Development—

“(i) wage information, and

“(ii) whether an individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received (or to be received) by such individual, and

“(B) shall establish such safeguards as are necessary (as determined by the Secretary of Labor in regulations) to ensure that information disclosed under subparagraph (A) is used only for purposes of determining an individual’s eligibility for benefits, or the amount of benefits, under a housing assistance program of the Department of Housing and Urban Development.

“(2) The Secretary of Labor shall prescribe regulations governing how often and in what form information may be disclosed under paragraph (1)(A).

“(3) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until he or she is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, he or she shall make no future certification to the Secretary of the Treasury with respect to such State.

“(4) For purposes of this subsection, the term ‘public housing agency’ means any agency described in section 3(b)(6) of the United States Housing Act of 1937.

“(5)² The provisions of this subsection shall cease to be effective beginning on October 1, 1994.”

(B) Section 304(a)(2) of the Social Security Act (42 U.S.C. 504(a)(2)) is amended by striking “(e), or (h)” and inserting “(e), (h), or (i)”.

1937 and in paragraph (3)(A) to “agreement”. Pursuant to section 503 of such Act (set forth in the footnote on page 114 of this compilation), the amendment was made on the date of enactment (and, therefore, the new subsection is shown), but applies beginning upon October 1, 1999.

¹As of December 31, 1998, the only subsequent amendment to this subsection of section 303 of the Social Security Act was an amendment striking paragraph (5).

²Section 542(a)(1) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 (Public Law 105-65; 111 Stat. 1412) repealed this paragraph effective October 27, 1997, and such repeal applies to any requests for information made after the repeal.

(2) APPLICANT AND PARTICIPANT PROTECTIONS.—(A) In order to protect applicants for, and recipients of, benefits under the programs of the Department of Housing and Urban Development from the improper use of information obtained pursuant to the requirements of section 303(i) of the Social Security Act from the State agency charged with the administration of the State unemployment compensation law, pursuant to section 3(d)(1) of the United States Housing Act of 1937 from the applicant or participant, or pursuant to section 6103(l)(7)(D)(ix) of the Internal Revenue Code of 1986 from the Commissioner of Social Security or the Secretary of the Treasury, officers and employees of the Department of Housing and Urban Development and (in the case of information obtained pursuant to such section 303(i) or 3(d)(1)) representatives of public housing agencies may only use such information—

(i) to verify an applicant's or participant's eligibility for or level of benefits; or

(ii) in the case of an owner or public housing agency responsible for determining eligibility for or level of benefits, to inform such owner or public housing agency that an applicant's or participant's eligibility for or level of benefits is uncertain and to request such owner or public housing agency to verify such applicant's or participant's income information.

(B) No Federal, State, or local agency, or public housing agency, or owner responsible for determining eligibility for or level of benefits receiving such information may terminate, deny, suspend, or reduce any benefits of an applicant or participant until such agency or owner has taken appropriate steps to independently verify information relating to—

(i) the amount of the wages, other earnings or income, or unemployment compensation involved,

(ii) whether such applicant or participant actually has (or had) access to such wages, other earnings or income, or benefits for his or her own use, and

(iii) the period or periods when, or with respect to which, the applicant or participant actually received such wages, other earnings or income, or benefits.

(C) Such applicant or participant shall be informed by the agency or owner of the findings made by the agency or owner on the basis of such verified information, and shall be given an opportunity to contest such findings, in the same manner as applies to other information and findings relating to eligibility factors under the program.

(3) PENALTY.—(A) Any person who knowingly and willfully requests or obtains any information concerning an applicant or participant pursuant to the authority contained in section 303(i) of the Social Security Act, section 3(d)(1) of the United States Housing Act of 1937, or section 6103(l)(7)(D)(ix) of the Internal Revenue Code of 1986 without consent or agreement, as applicable, pursuant to subsection (b) of this section or under false pretenses, or any person who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive it, shall be guilty

of a misdemeanor and fined not more than \$5,000. The term "person" as used in this paragraph shall include an officer or employee of the Department of Housing and Urban Development, an officer or employee of any public housing agency, and any owner responsible for determining eligibility for or level of benefits (or employee thereof).

(B) Any applicant or participant affected by (i) a negligent or knowing disclosure of information referred to in this section, section 303(i) of the Social Security Act, section 3(d)(1) of the United States Housing Act of 1937, or section 6103(l)(7)(D)(ix) of the Internal Revenue Code of 1986 about such person by an officer or employee of any public housing agency or owner (or employee thereof), which disclosure is not authorized by this section, such section 303(i), such section 3(d)(1), such section 6103(l)(7)(D)(ix), or any regulation implementing this section, such section 303(i), such section 3(d)(1), or such section 6103(l)(7)(D)(ix), or for which consent, pursuant to subsection (b) of this section, has not been granted, or (ii) any other negligent or knowing action that is inconsistent with this section, such section 303(i), such section 3(d)(1), such section 6103(l)(7)(D)(ix), or any such implementing regulation may bring a civil action for damages and such other relief as may be appropriate against any officer or employee of any public housing agency or owner (or employee thereof) responsible for any such unauthorized action. The district court of the United States in the district in which the affected applicant or participant resides, in which such unauthorized action occurred, or in which the applicant or participant alleged to be responsible for any such unauthorized action resides, shall have jurisdiction in such matters. Appropriate relief that may be ordered by such district courts shall include reasonable attorney's fees and other litigation costs.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the provisions of this section shall take effect on September 30, 1989.

(2) OPTIONAL EARLY IMPLEMENTATION.—At the initiative of a State or an agency of the State, and with the approval of the Secretary of Labor, the amendments made by subsection (c)(1) may be made effective in such State on any date before September 30, 1989, which is more than 90 days after the date of the enactment of this section.

(3) REQUIREMENTS FOR STATE AGENCIES.—In the case of any State the legislature of which has not been in session for at least 30 calendar days (whether or not consecutive) between the date of the enactment of this Act and September 30, 1989, the amendments made by subsection (c)(1) shall take effect 30 calendar days after the first day on which such legislature is in session on or after September 30, 1989.

(e) CONDITIONS OF RELEASE OF INFORMATION BY THIRD PARTIES.—An applicant or participant under any program of the Department of Housing and Urban Development may not be required or requested to consent to the release of information by third par-

ties as a condition of initial or continuing eligibility for participation in the program unless—

(1) the request for consent is made, and the information secured is maintained, in accordance with this section,¹ section 552a of title 5, United States Code; and

(2) the consent that is requested is appropriately limited, with respect to time and information relevant and necessary to meet the requirements of this section.²

¹So in law.

²Section 903 of the Housing and Community Development Act of 1992, Pub. L. 102-550, approved October 28, 1992, added subsection (e). Subsection (b) of such section provides for the development of a new release form meeting the requirements of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.

USE OF AMERICAN MATERIALS AND PRODUCTS

EXCERPT FROM HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987

[Public Law 100-242; 101 Stat. 1950; 12 U.S.C. 1735e-1]

SEC. 571. [12 U.S.C. 1735e-1] USE OF AMERICAN MATERIALS AND PRODUCTS.

In the administration of housing assistance programs, the Secretary of Housing and Urban Development shall encourage the use of materials and products mined and produced in the United States.

EXCERPT FROM HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992

[Public Law 102-550; 106 Stat. 3883; 42 U.S.C. 3546]

SEC. 920. [42 U.S.C. 3546] USE OF DOMESTIC PRODUCTS.

(a) **PROHIBITION AGAINST FRAUDULENT USE OF “MADE IN AMERICA” LABELS.**—A person shall not intentionally affix a label bearing the inscription of “Made in America”, or any inscription with that meaning, to any product sold in or shipped to the United States, if that product is not a domestic product.

(b) **REPORT.**—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall each submit, before January 1, 1994, a report to the Congress on procurements of products that are not domestic products.

(c) **DEFINITIONS.**—For the purposes of this section, the term “domestic product” means a product—

(1) that is manufactured or produced in the United States;
and

(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

REVOLVING FUND FOR LIQUIDATING PROGRAMS

EXCERPT FROM INDEPENDENT OFFICES APPROPRIATION ACT, 1955

[Public Law 83-428; 68 Stat. 295; 12 U.S.C. 1701g-5]

Office of the Administrator, revolving fund (liquidating programs): There is established as of June 30, 1954, a revolving fund, and the Administrator¹ is authorized to credit said fund with all moneys hereafter obtained or now held by him or by any constituent agency of the Housing and Home Finance Agency¹ by any other official thereof, and to account under said fund for all assets and liabilities, in connection with (1) community facilities provided or assisted under title II of the Lanham Act, as amended (42 U.S.C. 1531-1534), or under title III of the Defense Housing and Community Facilities and Services Act of 1951, as amended (42 U.S.C. 1592-1592n); (2) loans or advances made pursuant to title V of the War Mobilization and Reconversion Act of 1944 (58 Stat. 791), or the Act of October 13, 1949 (40 U.S.C. 451-458); (3) functions transferred under Reorganization Plan No. 23 of 1950 (5 U.S.C. 133z-15, note), or authorized under sections 102, 102a, 102b, and 102c of the Housing Act of 1948, as amended (12 U.S.C. 1701g-1701g-3); (4) notes or other obligations purchased pursuant to the Alaska Housing Act, as amended (48 U.S.C. 484 (a)); (5) subsistence homesteads and greentowns (Acts of June 29, 1936, 49 Stat. 2035, and May 19, 1949, 63 Stat. 68); (6) public war housing under title I of the Lanham Act, as amended (42 U.S.C. 1521-1524), and defense housing under title III of the Defense Housing and Community Facilities and Services Act of 1951, as amended (42 U.S.C. 1592-1592n); and (7) veterans' re-use housing under title V of the Lanham Act, as amended (42 U.S.C. 1571-1575): *Provided*, That said fund shall be available for all necessary expenses (including administrative expenses) in connection with the liquidation of the programs carried out pursuant to the foregoing provisions of law, including operation, maintenance, improvement, or disposition of facilities, and for disbursements pursuant to outstanding commitments against moneys herein authorized to be credited to said fund, repayment of obligations to the Treasury, and refinancing and refunding operations on existing loans: *Provided further*, That any amount in said fund which is determined to be in excess of requirements for the purposes hereof shall be declared and paid as liquidating dividends to the Treasury not less often than annually: *Provided further*, That during the current fiscal year not to exceed \$3,940,000 shall be available for administrative expenses (including not to exceed \$265,000 for travel) for the fore-

¹Section 5(a) of the Department of Housing and Urban Development Act, Pub. L. 89-174, approved Sept. 9, 1965, which is set forth, *ante*, this part, transferred to the Secretary of Housing and Urban Development all functions, powers, and duties of the Housing and Home Finance Agency.

going purposes, but this amount shall be exclusive of costs of services performed on a contract or fee basis in connection with termination of contracts and legal services on a contract or fee basis and of payment for services and facilities of the Federal Reserve banks or any member thereof, any servicer approved by the Federal National Mortgage Association, the Federal home-loan banks, and any insured bank within the meaning of the Act of August 23, 1935, as amended, creating the Federal Deposit Insurance Corporation (12 U.S.C. 264) which has been designated by the Secretary of the Treasury as a depository of public money of the United States: *Provided further*, That after the effective date of this Act no additional notes or obligations shall be purchased from funds appropriated pursuant to the Alaska Housing Act, as amended (48 U.S.C. 484 (d)), except for the furtherance or refinancing of an existing loan: *Provided further*, That except for extensions, or refinancing, of existing obligations the authority to issue obligations to the Secretary of the Treasury under section 1 (4) of Reorganization Plan No. 23 of 1950 (5 U.S.C. 1332-15, note), shall terminate on June 30, 1954: *Provided further*, That all expenses, not otherwise specifically limited in this Act, in connection with the programs administered pursuant to the foregoing provisions of law shall not exceed \$20,000,000.¹

¹The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992, Pub. L. 102-139, 105 Stat. 752, provides as follows:

“Notwithstanding section 289(c) of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625), the assets and liabilities of the revolving fund established by section 312 of the Housing Act of 1964, as amended (42 U.S.C. 1452b), and any collections, including repayments or recaptured amounts, of such fund shall be transferred to and merged with the Revolving Fund (liquidating programs), established pursuant to title II of the Independent Offices Appropriation Act, 1955, as amended (12 U.S.C. 1701g-5), effective October 1, 1991.”

Section 289(c) of the Cranston-Gonzalez National Affordable Housing Act provides for disposition of repayments in connection with the program under section 312 of the Housing Act of 1964 and is set forth in part IV of this compilation.

PUBLIC NOTICE AND COMMENT RULEMAKING

EXCERPT FROM DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1998

[Public Law 105-65; 111 Stat. 1365]

SEC. 208. REQUIREMENT FOR HUD TO MAINTAIN PUBLIC NOTICE AND COMMENT RULEMAKING.—Notwithstanding any other provision of law, for fiscal year 1998 and for all fiscal years thereafter, the Secretary of Housing and Urban Development shall maintain all current requirements under part 10 of the Department of Housing and Urban Development regulations (24 CFR part 10) with respect to the Department's policies and procedures for the promulgation and issuance of rules, including the use of public participation in the rulemaking process.