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MAJOR HUD PROGRAMS

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I. COMMUNITY AND ECONOMIC DEVELOPMENT AND NEIGHBORHOOD PRESERVATION (Administered by the Office of Community Planning and Development)

A. COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM

1. Community Development Grants Programs

The CDBG program provides annual grants on a formula basis to be used for a wide range of community development activities directed toward neighborhood revitalization, economic development, and improved community facilities and services. Specific activities include:

-- Acquisition of real property;

-- Acquisition and construction of public works and facilities;

-- Code enforcement;

-- Rehabilitation of residential and non-residential properties;

-- Provision of public services, such as those concerned with employment, drug abuse, and education;

-- Provision of assistance to private, for-profit entities; and

-- Grants to neighborhood-based non-profits, local development corporations, and minority business enterprises to carry out neighborhood revitalization and community economic development activities.

Of the total amount appropriated each year, 1% ($40 million for FY 1993) is set-aside for grants to Indian tribes under section 106(a)(1). Then, any amounts provided for use under section 107, Special Purpose Grants, are also set-aside. The remainder is used for the two principal components of the program: the Entitlement program and the State program.

Under the Entitlement program, 70% of the amount available is allocated to certain larger cities and counties (known as "metropolitan cities" and "urban counties"). The remaining 30% is allocated under the State program to participating States. (HUD administers the program for the two States -- Hawaii and New York -- that have declined to participate.) Allocations are made on the basis of a "dual formula" that takes into account factors such as population, poverty, housing overcrowding, and age of housing. Entitlement communities carry out their own programs;

States are responsible for ensuring compliance with the program's requirements, but must pass all amounts through to smaller, "nonentitlement" localities in the State.

In developing their priorities and activities, Entitlement grantees and State grantees must give "maximum feasible priority" to activities that will benefit low- and moderate-income persons or aid in the prevention or elimination of slums or blight. Funds may also be used to meet other community development needs that present a serious and immediate threat to the health or welfare of the community. Over a three-year period, at least 70% of program funds must be used for activities that benefit low- and moderate-income persons.

Legal Authority: Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*); 24 CFR Part 570.

Program Status: The FY 93 appropriation is $4 billion. The FY 93 authorization is $4 billion and the FY 94 authorization is 4.2 billion. HUD has proposed to OMB a budget request of $2.9 billion for FY 94.

2. Special Purpose Grants (Section 107)

Section 107 of the 1974 Act establishes a set-aside within the CDBG program for special purpose grants, including:

-- Grants to Insular areas: Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands (Palau) (section 107(b)(1));

-- Formula corrections (section 107(b)(2));

-- Grants to historically black colleges (section 107(b)(3));

-- Technical assistance in connection with CDBG activities (section 107(b)(4));

-- Grants to States, local governments, and institutions of higher education to carry out eligible activities under the CDBG program (grants to States or local governments must be pursuant to a joint application with such an institution) (section 107(b)(5));

-- Grants to local governments for planning community adjustments and economic diversification activities as a result of a military base closing or a cancellation of a Defense contract (section 107(b)(6));

-- Grants to rebuild and revitalize distressed areas of the Los Angeles metropolitan area (section 107(b)(7)); and

-- Grants to institutions of higher education to provide assistance to economically disadvantaged students who participate in community development work study programs and are studying community and economic development (section 107(c)).

The FY 1993 appropriation is $14.5 million for special purpose grants and the HCD Act of 1992 makes $60 million available. Given the fact that the CDBG program is fully funded, the later enacted authorization, not the appropriation, controls. The HCD Act of 1992 establishes the following set-asides under section 107(a)(1):

(A) Insular areas -- $7 million;

(B) Black colleges -- $6.5 million;

(C) States, local governments, and institutions of higher education -- $6 million;

(D) Los Angeles -- $6 million;

(E) Work study -- $3 million;

(F) Formula errors, technical assistance, the new military closure/cancellation authority -- such sums;

(G) City of Bridgeport -- $2 million (this item requires future appropriations Act funding);

(H) Removal of Regulatory Barriers to Affordable Housing Act of 1992 -- $15 million; and

(I) Community Outreach Partnership Act of 1992 -- $7.5 million.

Therefore, of the $60 million available, $53 million is for specific activities and the remaining $7 million is apparently available for formula errors, technical assistance, and the new military closure/cancellation authority, and grants to States, local governments and institutions of higher education.

Legal Authority: Section 107 of the Housing and Community Development Act of 1974 (42 U.S.C. 5307); 24 CFR Part 570, Subpart E.

Program Status: The FY 1993 appropriation is $14.5 million. However, the HCD Act of 1992 makes $60 million available. In addition, $60 million is available for subsequent fiscal years (unless future law changes this amount). HUD has proposed to OMB a budget request of about $15 million for FY 1994.

3. Section 108 Loan Guarantees

The Section 108 Loan Guarantee program provides Federal "full faith and credit" loan guarantees for indebtedness issued by CDBG Entitlement communities ("metropolitan cities" and "urban counties") as well as units of general local government in nonentitlement areas. HUD is required to allocate 70% of the guarantees to metropolitan cities, urban counties, and Indian tribes and 30% to local governments in nonentitlement areas. The program gives these grantees access to front-end financing for community and economic development activities that are too large to be financed from annual CDBG grants.

Eligible activities are:

-- Acquisition of real property;

-- Rehabilitation of publicly owned real property;

-- Housing rehabilitation;

-- Economic development activities eligible under the CDBG program; and

-- construction of housing by nonprofit organizations for homeownership under the Housing Development Grants (HODAG) or Nehemiah Housing Opportunity Grants Programs.

Participating communities must pledge their current and future community development grants as security for the guarantee, and the guaranteed amount may not exceed five times the community's community development and special purpose grants. States are required to pledge grants as security for guaranteed obligations issued by a local government in a nonentitlement area.

HUD is prohibited from denying loan guarantees on the basis of the proposed repayment period, unless the period is more than 20 years or constitutes an unacceptable risk. Where 50% of the aggregate guarantee authority has been committed, HUD may limit annual guarantees to a single entity to $35 million in entitlement areas and $7 million in nonentitlement areas.

Legal Authority: Section 108, Housing and Community Development Act of 1974 (42 U.S.C. 5308); 24 CFR Part 570, Subpart M.

Program Status: The FY 1993 appropriation is $2 billion. The FY 93 and FY 94 authorization is $2 billion. HUD has proposed to OMB a budget request of $200 million for FY 1994.

B. ENTERPRISE ZONES.

The purpose of the Enterprise Zone program is to create incentives for development within areas of pervasive poverty, unemployment, and general distress by reducing burdens on employers and employees and by focusing private and public benefit programs, technical and financial assistance, job training, and other assistance on individuals and businesses within the zones.

Title VII of the Housing and Community Development Act of 1987 provides procedures governing the designation of Federal enterprise zones by the Secretary of HUD. To be considered for designation, an area must:

-- meet geographic and population requirements of the statute; and

-- be nominated for designation by one or more local governments and by the State (or, in the case of a nominated area on an Indian reservation, by the reservation's governing body).

To be eligible for designation as a zone, the nominating governments must certify to the Secretary that:

-- the area is one of pervasive poverty, unemployment, and general distress;

-- the area is in a jurisdiction eligible for assistance under the Urban Development Action Grant program, under eligibility requirements for that program in effect in February 1988;

-- the unemployment rate is not less than 1 1/2 times the national unemployment rate;

-- the poverty rate was not less than 20% at the time of the most recent available census data; and

-- either not less than 70% of the area's households have incomes below 80% of the median household income of the local government as a whole, or there was a 20% decrease in the population of the area between 1970 and 1980.

(Nominated areas that are rural need not meet all five of the above-noted requirements to be eligible. Rural areas must meet the first and second of the above-listed criteria, and at least one of the other three.)

From among eligible areas duly nominated, the Secretary, after consulting with the Secretaries of Agriculture, Commerce, Labor, and the Treasury, the Director of OMB, and the Small Business Administrator (and in the case of eligible Indian areas, with the Secretary of the Interior), may designate up to 100 enterprise zones, not less than 1/3 of which must be in "rural" areas, as defined by the statute.

Designation of enterprise zones is accomplished by means of ranking eligible nominated areas based on the degree to which the competing zones exceed the thresholds for qualifying under four criteria. For urban enterprise zones, each area is ranked separately on the basis of relative poverty, unemployment, low income, and population loss. For rural enterprise zones, selection is determined based on the areas ranking with respect to the single criterion -- among unemployment, poverty, low income, and population loss -- on which the particular area ranks the highest.

Areas designated as enterprise zones will retain that designation for 25 years, unless the designation is revoked because the State or local government fails to comply with commitments made to pursue a "course of action" in support of the zone, or unless the nominating jurisdictions specify an earlier termination date.

No nominated area can be designated by the Secretary as an enterprise zone unless the nominating State and local government have agreed in writing to follow a specified "course of action" designed to reduce burdens on employers and employees in the enterprise zone area. The "course of action" must include not less than four of the following six statutory features, undertaken within the zone:

-- A reduction in tax rates or fees;

-- Increased levels of public services, or an increase in the efficiency of delivery of public services;

-- Action to reduce, remove or simplify paperwork requirements;

-- Involvement by public or private entities, including a written commitment to provide jobs and job training for, and technical, financial or other assistance to, employers, employees and residents;

-- The giving of special preference to minority contractors;

-- The gift (or sale at below fair market value) of surplus land to neighborhood organizations agreeing to operate a business on the land.

In addition to the advantages accruing to a particular enterprise zone by virtue of its local "course of action", the statute authorizes HUD and FmHA, at the request of a designated zone, to waive or modify particular regulations applicable to zone activities. Regulations can be waived or modified whenever the requested modification would further job creation, community development, or economic revitalization objectives.

As noted, Federal enterprise zone designation will give these areas access to regulatory relief and will, by virtue of the required "course of action", provide other advantages to the zones.

Legal Authority: Title VII of the Housing and Community Development Act of 1987 (42 U.S.C. 11501-11505 and 42 U.S.C. 3532); 24 CFR Part 596.

Program Status: None of the tax-related changes in Federal law originally associated with the Enterprise Zone legislative initiative has yet been enacted. A bill including such initiatives was recently vetoed.

Applications for zone status were submitted in FY 1989 but never acted on since the absence of tax incentives was considered fatal to their success.

The HCD Act of 1992 extended the deadline for designation of zones to 24 months after date of enactment of the HCD Act of 1992 (until October 28, 1994). No direct appropriation is required or sought. Staffing for administration of the program is covered by Community Planning and Development.

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II. ASSISTED HOUSING

A. PUBLIC AND INDIAN HOUSING (Administered by the Office of Public and Indian Housing)

Under the Public and Indian Housing program, HUD gives grants to public housing agencies (PHAs), including Indian housing authorities (IHAs), to finance the capital cost of the construction, rehabilitation, or acquisition of public housing developed by PHAs. Eligible families and individuals must qualify as "low-income families," which are those with incomes no higher than 80% of the median income for the area. To cover the shortfall between tenant rents and operating expenses, HUD pays operating subsidies to many PHAs. To cover modernization of existing public housing, HUD makes modernization grants to PHAs.

1. Development. To develop Public and Indian Housing, a PHA generally hires a contractor to proceed with a program approved by HUD, or a private builder constructs units on agreed terms, in response to an invitation by the PHA, and then sells the project to the PHA. Alternatively, a PHA may acquire existing housing, if that is more efficient than constructing new units. IHAs may build rental or homeownership units.

The 1992 Act provides that up to 20% of development funds may be used for major reconstruction of obsolete public housing projects.

Legal Authority: The U.S. Housing Act of 1937; 24 CFR Parts 904, 905, 941.

Program Status: For FY 1993, grant funding is available for approximately 4,900 units of regular public housing and 2,800 units of Indian public housing. HUD has proposed to OMB a budget request only for 1,500 units of Indian housing for FY 1994.

2. Operating Subsidy. HUD provides operating subsidies to PHAs to help them meet operating and maintenance expenses. Annual subsidy requirements are calculated on the basis of the Performance Funding System (PFS) formula, which takes into account what it would cost a comparable, well-managed PHA to operate its units.

Legal Authority: Section 9 of the 1937 Act; 24 CFR Part 990.

Program Status: $2.28 billion appropriated for FY 1993. HUD has proposed to OMB a budget request of $2.5 billion for FY 1994.

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3. <u>Modernization (CIAP and Comp Grants)</u>. HUD makes modernization funds available to permit PHAs to correct physical and management deficiencies in existing public housing projects and to achieve operating efficiency and economy. Funding is currently provided under the Comprehensive Improvement Assistance (CIAP) program for PHAs that own or operate fewer than 250 units and under the Comprehensive Grant (Comp Grant) program for PHAs with 250 or more units. The CIAP program permits smaller PHAs to compete for funding for modernization of their projects. The Comp Grant program allocates funding to larger PHAs on a formula basis, to provide a reliable and more predictable funding source to enable them to modernize their programs. PHAs under the Comp Grant program have more discretion to decide the specific improvements, the manner of their execution, and the timing of the expenditures.

The 1992 Act requires HUD to set aside approximately $96 million of the appropriation for the Modernization program for the Public Housing Vacancy Reduction program.

<u>Legal Authority</u>: Section 14 of the 1937 Act; 24 CFR Part 968.

<u>Program Status</u>: $3.1 billion appropriated for FY 1993. HUD has proposed to OMB a budget request of $2.3 billion for FY 1994. Regulations need to be developed for the newly-funded Public Housing Vacancy Reduction program.

4. <u>Demonstration Involving Major Reconstruction of Severely Distressed or Obsolete Public Housing</u>. The FY 1993 appropriations Act establishes a new urban revitalization demonstration program involving major reconstruction of severely distressed or obsolete public housing projects. PHAs will administer the program. Funding will be provided in up to 15 cities, selected from either the 40 largest cities or from any city whose housing authority was troubled as of March 31, 1992. No locality may receive more than $50 million. At least 80% of the funding must be used for capital costs of major reconstruction, rehabilitation and other physical improvements, the capital costs of replacements units and section 8 certificates used for replacement, and management improvements and planning and technical assistance purposes. Up to 20% may be used for community services programs. Grants under this program may be used in conjunction with modernization funding. The program is not available for Indian housing.

The 1992 Act established a new Severely Distressed Public Housing program under section 24 of the 1937 Act. No funding is available.

Legal Authority: HUD's FY 1993 appropriations Act, under the head "Homeownership and Opportunity for People Everywhere Grants (HOPE Grants)."

Program Status: This is a new program authorized and funded at a $300 million level by the FY 1993 appropriations Act. PIH is developing a NOFA, which is scheduled for January 1993 publication. No FY 1994 funding has been requested at this time.

5. Choice in Management. The new Choice in Management program authorizes HUD to approve up to 25 applications for fiscal years 1993 and 1994 submitted by resident councils for the transfer of the management of distressed public housing projects (or buildings) that are owned or operated by troubled PHAs. PHAs will be required to transfer management responsibilities to alternative managers. Operating subsidies would be paid directly to the alternative managers. From the amounts set-aside for rehabilitation grants from the modernization appropriation, HUD and the manager would enter into a contract to fund rehabilitation. In addition, managers would receive annual capital improvements funding from the project's share of Comp Grant funding otherwise payable to the PHA. The amounts received by PHAs for operating subsidies and modernization assistance would be reduced in accordance with the statutory requirements, to take into account the direct HUD payments to alternative managers.

Legal Authority: Section 25 of the 1937 Act, added by section 121 of the 1992 Act.

Program Status: PIH and PD&R are determining whether to proceed by notice (with a minor regulation) or by regulation. HUD is authorized to set aside up to $50 million from the appropriation for the Modernization program for each of FYs 1993 and 1994 for rehabilitation grants. HUD has proposed to OMB a set-aside of $50 million for FY 1994.

6. Resident Management Corporations. Under the Management program, resident councils that represent public housing tenants may approve the formation of resident management corporations (RMCs). A qualifying RMC may enter into a management contract with the PHA, establishing the respective management rights and responsibilities of the PHA and the corporation with respect to the public housing project involved. The program gives PHAs and RMCs wide latitude in establishing their respective roles and relationships under the contract.

RMCs may retain any income that they generate in excess of estimated revenues for the project. Retained amounts may be used for purposes of improving the maintenance and operation of the projects, establishing business enterprises that employ public housing residents, or acquiring additional dwelling units for low-income families.

To assure the effectiveness of the RMC program, PHAs are required to enter into "good faith negotiations" and to "make every reasonable effort to come to terms with the resident management corporation." In addition, the rule provides for informal appeal to HUD if a PHA refuses to negotiate in good faith or, after negotiation, refuses to enter into a management contract. Among other things, HUD is required to "take such other actions as are necessary to resolve the conflicts between the parties."

Legal Authority: Section 20 of the 1937 Act. 24 CFR Part 964.

Program Status: The FY 1993 appropriation is $4.75 million. The authorization for FY 1993 is $4.75 million and the authorization for FY 1994 is $4.95 million. HUD has proposed $5 million for FY 1994.

7. Homeownership. Under the public housing homeownership program authorized by section 21 of the 1937 Act, an RMC with at least three years' experience in successfully managing public housing may purchase one or more multifamily buildings from the PHA. An RMC may offer the units involved for sale to low-income project residents and other low-income families. HUD also has the Turnkey III and Indian Mutual Help homeownership programs, and has approved individual homeownership programs designed locally.

See Part IV.A for a discussion of the HOPE 1 program, HOPE for Public and Indian Housing Homeownership.

Legal Authority: Section 21 of the 1937 Act.

Turnkey III: 24 CFR Part 904.

Indian Mutual Help: Section 202 of the 1937 Act; 24 CFR Part 905, Subpart D.

Locally-designed programs: section 5(h) of the 1937 Act.

Program Status: Most homeownership is now being funded under the HOPE 1 program (see Part IV.A). Section 21 has been "sunsetted."

8. Public and Assisted Housing Drug Elimination Pilot Program. The Anti-Drug Abuse Act of 1988, as amended, authorizes

the Public and Assisted Housing Drug Elimination program. Under the program, HUD makes grants to PHAs, RMCs, and owners of assisted housing for activities such as (1) employment of security personnel; (2) reimbursement of police for additional security and protective services; (3) physical improvements to enhance security; (4) training and equipping voluntary tenant patrols acting in cooperation with police; (5) innovative anti-drug programs; and (6) funding nonprofit resident management corporations and tenant councils for the development of security and drug abuse prevention programs.

Legal Authority: Sections 5121-5130 of the Anti-Drug Abuse Act of 1988 (entitled the Public and Assisted Housing Drug Elimination Act of 1990).

Program Status: $175 million appropriated for FY 1993. The appropriations Act earmarks $5.2 million for technical assistance for or on behalf of PHAs and resident organizations; $5 million for a youth violence prevention in low-income housing program; and $10 million for grants to federally-assisted, low-income housing. The Drug Elimination Act of 1990 provides that up to 6.25% may be for grants for assisted housing and that 5% shall be made available for the Youth Sports program. HUD has requested $165 million for the Drug Elimination Grants program for FY 1994, with an earmark for youth sports activities.

9. Drug-Free Public Housing. The Anti-Drug Abuse Act of 1988 includes as one of its chapters the Drug-Free Public Housing Act of 1988. That Act requires HUD to (1) establish, in PIH, a clearinghouse of information regarding drug abuse in public housing; and (2) establish a regional training program on drug abuse for public housing officials.

Legal Authority: Sections 5141-5146 of the Anti-Drug Abuse Act of 1988 (title V, Subtitle C, Chapter 3) (entitled the Drug-Free Public Housing Act of 1988).

Program Status: PIH is implementing these requirements. No appropriation is required; activities are funded through the Salaries and Expenses account.

10. Family Investment Centers. Section 515 of the Cranston-Gonzalez National Affordable Housing Act authorizes HUD to make grants to PHAs to help families living in public housing gain better access to educational and job opportunities to achieve self-sufficiency and independence. Grants may only be used to develop facilities in or near public housing for training and supportive services, to provide funding for essential training and services that cannot otherwise be funded, and to employ service coordinators to ensure sound management.

Assistance is available only to PHAs that demonstrate that related supportive services will be made available. The program requires PHAs, to the maximum extent practicable, to employ public housing residents to provide the services assisted under this section or from other sources.

Legal Authority. Section 22 of the 1937 Act, 42 U.S.C. 1437t.

Program Status. $25 million appropriated for FY 1993. Section 119 of the HCD Act of 1992 authorized $25 million for FY 1993 and $26.05 million for FY 1994. No funding request has been submitted to OMB for FY 1994.

11. Youth Sports Program. The Public and Indian Housing Youth Sports program authorizes HUD to make grants to States, units of general local government, local park and recreation districts and agencies, PHAs, nonprofit organizations, Indian tribes, and IHAs to carry out youth sports programs in public and Indian housing projects with substantial drug problems. Grant funds, 50% of which must be matched with funds from non-Federal sources, may be used for the following eligible activities: (a) acquisition, construction, or rehabilitation of community centers, parks, or playgrounds; (b) redesigning or modifying public spaces in public housing projects to provide increased utilization of the areas by youth sports programs; and (c) provision of public services, including salaries and expenses for staff of youth sports programs, cultural activities, educational programs relating to drug abuse, and sports and recreation equipment.

Legal Authority: Section 520 of NAHA, 42 U.S.C. 11903a; 24 CFR Part 961 (proposed rule, soon to be published in final).

Program Status: The Public and Assisted Housing Drug Elimination Act of 1990 provides that 5% of any amount made available in any fiscal year under that Act shall be available for Public Housing Youth Sports program grants. Of the $175 million appropriated for FY 1993 for the Public and Assisted Housing Drug Elimination program, $8.75 million is available for the Youth Sports program. The authorization for the Public and Assisted Housing Drug Elimination program for FY 1993 is $175,000,000 and $182,350,000 for FY 1994. HUD has proposed to OMB a budget request of $165 million for FY 1994, with an $8.3 million earmark for Youth Sports activities.

12. Vacancy Reduction in Public Housing. HUD is required to require any PHA that has a vacancy rate that exceeds twice the average vacancy rate of all PHAs, that is designated as a troubled PHA, or for which a received has been appointed to

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participate in the Vacancy Reduction program. Each PHA in the program is required to develop and submit to HUD a vacancy reduction plan. HUD provides for onsite assessment by a team including representatives of HUD and an equal number of independent experts and PHA officials selected by HUD. HUD provides assistance for (a) implementing management improvements, (b) rehabilitating vacant units, and (c) carrying out other vacancy reduction activities.

Legal Authority: Section 14(p) of the 1937 Act, 42 U.S.C. 1437l(p).

Program Status: The 1992 Act requires HUD to set aside approximately $96 million of the appropriation for the Modernization program for the Public Housing Vacancy Reduction program for each of FYs 1993 and 1994. Regulations need to be developed for this newly-funded program. At this time, HUD has not submitted a request for FY 1994 funding to OMB.

B. SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM (Administered by the Office of Housing, except that the Office of Public and Indian Housing Administers the Certificate, Voucher, and non-McKinney Act Moderate Rehabilitation Program)

The Section 8 Housing Assistance Payments (HAP) program is a rent subsidy program that assists eligible low-income families obtain decent, safe, and sanitary housing. It consists of various subprograms, designed to reflect the different types of housing (new, substantial rehabilitation, moderate rehabilitation, existing) and delivery mechanisms available. More than 2.5 million families are assisted under the Section 8 program. The programs share many of the same features.

(1) Families receive the benefit of a rental subsidy, known as a housing assistance payment, equal to the difference between their share of the rent and the rent charged by the owner. Adjustments are made if the rent does not include all utilities. (The Housing Voucher program, under section 8(o), works differently, as described in the individual program descriptions set forth below.)

(2) Owners, which may be public or private, receive the housing assistance payments directly from HUD or from a PHA that administers the program for HUD for a fee.

(3) Eligible families and individuals must be low-income families, which are families with incomes no higher than 80% of the area median. A large majority of eligible families are very low-income families, which are low-income families whose incomes are no higher than 50% of the area

median. Section 16 of the 1937 Act restricts the number of eligible families that may be admitted with incomes between 50% and 80%. For pre-1981 units, no more than 25% of the families admitted (on a national basis) may have incomes between 50% and 80%. For post-1981 units, no more than 15% of the families may have such higher incomes.

(4) The units must be maintained by the owner in decent, safe, and sanitary condition. If not, the owner does not qualify to receive the HAP payment.

(5) Rents must be within the fair market rent (FMR) for the area and type of housing. (The Housing Voucher program also differs on this point as described below.)

(6) There is a Federal statutory preference for families that live in substandard housing, are paying more than 50% of income towards rent, or are involuntarily displaced.

Under section 8 of the U.S. Housing Act of 1937, HUD has established the following programs:

1. Certificate Program. Under the Certificate program, PHAs issue certificates of family participation to very low-income families (and a limited number of families with incomes up to 80% of the area median). These families may select any decent, safe, and sanitary unit within the jurisdiction of the PHA that rents for an amount within the FMR limitations for the area. PHAs enter into HAP contracts with owners. Approximately 1.1 million families are currently being assisted under the Certificate program. Certificates can also be used for special purposes, such as assisting families in section 8 projects where an owner is opting out of participation in the program and FHA prepayment situations. The 1992 Act authorizes families to use Certificates for homeownership.

2. Housing Voucher Program. This program, like the Certificate program, permits families to select their own units from the housing stock available within the jurisdiction of the PHA, and is otherwise functionally the same as the Certificate program, except for a few key differences:

(a) Vouchers may be issued only to very low-income families, families already assisted under the 1937 Act, families with incomes up to 80% of area median that are displaced by rental rehabilitation program activities, and families that qualify to receive a voucher in connection with one of the HOPE homeownership programs.

(b) There is no limit on the rent for the unit a family selects, thereby giving families more freedom in choosing units.

(c) Assistance is equal to the difference between the tenant contribution (30% of adjusted income) and the payment standard (which is the section 8 FMR for existing housing for the area). If the family selects a unit renting for more than the payment standard, it pays the excess. Its rent-to-income ratio would then exceed 30% of adjusted income. If the family selects a unit renting for less than the payment standard, it, in effect, keeps the difference by paying a lower percentage of its income for rent. (Families are subject to a minimum rent of 10% of their gross income.)

Approximately 350,000 families are now being assisted under the Voucher program.

3. <u>Moderate Rehabilitation</u>. The purpose of the Moderate Rehabilitation program is to upgrade substandard rental housing and to provide rental subsidies for low-income families that occupy the rehabilitated units. Approximately 150,000 families are being assisted under this program. No additional units are being funded, except under the McKinney Act, which authorizes funding for rental assistance in connection with moderate rehabilitation of single room occupancy (SRO) housing for the homeless. SRO housing is housing lacking either a kitchen, or a bathroom, or both.

4. <u>New Construction and Substantial Rehabilitation</u>. Authority for the various section 8 new construction and substantial rehabilitation programs was repealed by the Housing and Urban-Rural Recovery Act of 1983, except in connection with the old Section 202 direct loan program and projects in the pipeline. HUD approved applications for projects and agreed to provide section 8 assistance upon completion of the construction or substantial rehabilitation. Assistance is provided to PHA owners or private owners under 24 CFR Part 880 (for new construction) or 24 CFR Part 881 (for substantial rehabilitation). In addition, new construction and substantial rehabilitation assistance may be provided through State Housing Finance and Development Agencies under 24 CFR Part 883, in connection with financing by the Farmers Home Administration under 24 CFR Part 884, and in connection with HUD direct loans under the section 202 program to finance housing for the elderly and handicapped.

5. Loan Management Set-Aside (LMSA) Program. The goal of the LMSA program is to provide assistance to existing HUD-insured or HUD-held projects with immediate or potentially serious financial difficulties. HUD enters into HAP contracts directly with the owners of these projects. By attaching section 8 assistance to these projects, defaults under the FHA insurance program can be minimized and, therefore, outlays can be reduced. Approximately 420,000 families are now being assisted under this program and the PD program.

6. Property Disposition Program. The purpose of the PD program is to provide section 8 assistance in connection with the disposition of HUD-owned multifamily projects, in order to maintain the amount of decent, safe, and sanitary housing affordable by low-income families and minimize displacement. The assistance goes to existing projects already in decent, safe, and sanitary condition and to those needing moderate rehabilitation.

Legal Authority: Section 8 of the U.S. Housing Act of 1937, including:

Section 8(b)(1) for existing housing, including certificates, Vouchers, LMSA, and certain PD;

Section 8(b)(2), as it existed before repeal in 1983, for new construction and substantial rehabilitation;

Section 8(e)(2) for moderate rehabilitation; and

Section 8(o) for housing vouchers.

Regulations: (All references are to 24 CFR)

Parts 880, 881, 883, and 884: miscellaneous new construction and substantial rehabilitation programs;

Part 882, Subparts A and B: Certificate Program;

Part 882, Subparts D and E: Moderate Rehabilitation Program

Part 885: Section 202/8 Program;

Part 886, Subpart A (LMSA) and Subpart C (PD); and

Part 887: Housing Voucher Program.

The regulations for the Certificate and Voucher program are in the process of being consolidated in a new Part 982.

Program Status:

New Construction and Substantial Rehabilitation: Repealed.

Section 202/8 Program. No new funding. See Part II.C for revised capital grant/rental assistance program description.

Housing Vouchers. Funding for approximately 17,900 incremental units available for FY 1993. Funding for 70,330 incremental units requested for FY 1994.

Certificate Program. Funding for approximately 17,600 incremental units available for FY 1993. No funding requested for FY 1994.

Moderate Rehabilitation program. The FY 1993 appropriation is $105 million. No funding requested for FY 1994 (see Part V.E of this summary).

LMSA Program. Funding for approximately 8,400 units available for FY 1993. Funding for 10,000 units requested for FY 1994.

PD Program. Funding for approximately 950 units available for FY 1993. Funding for 7,900 requested for FY 1994.

C. FAMILY SELF-SUFFICIENCY PROGRAM (Administered by the Office Public and Indian Housing)

The purpose of the Family Self-Sufficiency (FSS) program is to promote the development of local strategies to coordinate the use of public housing and assistance under the Certificate and Voucher programs with public and private resources, to enable eligible families to achieve economic independence and self-sufficiency. With some exceptions, PHAs are required to establish an FSS program, but families are not required to participate. Participating families enter into contracts of participation with families setting forth the resources and services to be made available. Among the supportive services that may be provided are child care, transportation, remedial education, and job training. The statute limits the increase in rent payable by very low-income families due to increases in earned income. The excess is used to fund an escrow savings account which is available to the family after it no longer receives Federal or State welfare assistance, upon successful performance of its obligations under the contract of participation, and under other appropriate circumstances. IHAs may participate.

Legal Authority: Section 23 of the 1937 Act, 42 U.S.C. 1437u. Mandatory guidelines were published in the Federal Register on September 30, 1991.

Program Status: The guidelines apply to the Indian Housing, Public Housing, Certificate, and Voucher programs. Three sets of interim rules and final rules (to take effect in one year) are soon to be published for the Public Housing, Certificate and Voucher, and Indian Housing programs.

For FSS costs under the Public Housing program, HUD may authorize the use of $25 million of amounts appropriated for the Operating Subsidy program for FY 1993 and $25.9 million for FY 1994. HUD is requesting FY 1994 funding of $2.6 million for "mandatory costs" under the FSS program and $25.9 for "voluntary costs" in connection with the Public Housing program. In addition, the Budget request includes $8.4 million for PHAs administering the Certificate and Vouchers programs that have reserves below levels which would make it possible for them to fund FSS coordinators.

D. SUPPORTIVE HOUSING FOR THE ELDERLY (SECTION 202) (Administered by the Office of Housing)

This program authorizes Federal financial assistance to private nonprofit organizations for the purpose of providing supportive housing for the elderly, to finance site acquisition and improvement; construction, reconstruction, or rehabilitation of structures; and purchase of structures from the Resolution Trust Corporation. The financial assistance is (1) a capital advance for 40 years that is non-repayable and interest-free so long as the project is available for very low-income elderly persons; and (2) a 20-year renewable contract to subsidize shortfalls in project income from dwelling unit rents (and other sources). Projects are expected to have supportive services for the tenants, largely funded from non-HUD private or public sources.

Before January 1, 1992, the financial assistance under this program was 40-year direct loans at 9.25%, and HUD provided dwelling unit rental subsidies, to the nonprofit sponsors, through the Section 8 program.

Legal Authority: Section 202, Housing Act of 1959, 12 U.S.C. 1701q, as substantially amended most recently by section 801 of NAHA; 24 CFR Part 889.

Program Status: Under the FY 1993 appropriation, $1.13 billion is available for capital advances and rental assistance under the new program, which is expected to produce approximately

8,900 units. This amount includes $15.4 million for service coordinators. HUD has authority to make adjustments between the amounts for capital grants and rental assistance, so that appropriated funding is used efficiently.

The aggregate authorization for FY 1993 is approximately $917 million and for FY 1994, approximately $956 million. HUD has not proposed additional section 202 funding for FY 1994, in light of the pipeline. However, $15.2 million is being requested for service coordinators.

E. SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES (SECTION 811) (Administered by the Office of Housing)

This program authorizes Federal financial assistance to private nonprofit organizations to expand the supply of housing for persons with disabilities. The program provides capital advances and dwelling unit subsidies on essentially the same terms as the Supportive Housing for the Elderly (Section 202) program (although the statutory authorities for the two programs reflect minor differences of program emphasis).

Like the Elderly program, this program has evolved from a direct loan program that used section 8 assistance. In 1988, pursuant to the HCD Act of 1987, it became a loan program using its own dwelling unit subsidy, and in 1990 it assumed its current form -- capital advances with rental assistance.

Legal Authority: Section 811 of NAHA, 42 U.S.C. 8013, successor to section 202(h) of the Housing Act of 1959; 24 CFR Part 890.

Program Status: Under the FY 1993 appropriation, $193.8 million is provided for capital advances and rental assistance, which is expected to produce approximately 1,570 units (which, like the Elderly program, may be adjusted).

The aggregate authorization for FY 1993 is approximately $393 million and for FY 1994, approximately $410 million. HUD has not proposed additional section 811 funding for FY 1994, in light of the pipeline.

F. PREPAYMENT OF MORTGAGES INSURED UNDER THE NATIONAL HOUSING ACT (Administered by the Office of Housing)

Several of HUD's multifamily mortgage insurance programs provide subsidies to projects so that units will be affordable by low- and moderate-income families. These programs include the Section 221(d)(3) Below Market Interest Rate (BMIR) program, the Section 236 program, and, when combined with section 8 or rent supplement assistance, the Section 221(d)(3) Market Rate program. Regulations applicable to these programs generally provide that the mortgage may be prepaid during the first 20 years of the mortgage with HUD's consent and, after that, without HUD's consent.

In 1983, Congress established criteria that must be met before HUD may consent to the prepayment of a section 221(d)(3) BMIR mortgage, section 236 mortgage, or section 221(d)(3) market rate mortgage with rent supplement assistance.

ELIHPA

Congress imposed further restrictions on prepayment in the HCD Act of 1987. Title II of the 1987 Act (referred to as the Emergency Low Income Housing Preservation Act of 1987, ELIHPA, or Title II), provides, in essence, that even if the mortgage is 20 or more years old and the owner has a contractual right to prepay the mortgage, the owner may prepay only in accordance with a "plan of action" approved by HUD. Under the Act, HUD can give approval only if the owner demonstrates that prepayment will not materially increase economic hardship for current tenants and that the prepayment will not have a substantial impact on the supply of lower income housing in the area. The law also provides that HUD may offer incentives to owners who agree to maintain their projects as lower income housing, either under the current mortgage or after prepayment.

Transition

ELIHPA was initially intended to be a temporary measure to preserve low-income housing resources while Congress developed a long-term solution to the problem. In 1990, Congress completely amended title II or the 1987 Act in title VI of NAHA (referred to as the Low-Income Housing Preservation and Resident Homeownership Act of 1990, LIHPRHA, or Title VI). ELIHPA continues to apply for owners who filed notices of intent to prepay their mortgages by January 1, 1991 and who elected to be subject to ELIHPA.

LIHPRHA

With LIHPRHA, Congress established a permanent, comprehensive preservation program. Its basic objectives are to assure that the prepayment inventory of assisted housing is preserved and remains affordable to low-income households and to provide opportunities for tenants to become homeowners, while at the same time fairly compensating owners for the value of their properties.

Legal Authority: Section 250 of the National Housing Act (12 U.S.C. 1715z-15); title II of the HCD Act of 1987 as it existed before enactment of NAHA and title II of the HCD Act of 1987 as amended by title VI of NAHA; 24 CFR Part 248.

Program Status: The FY 1993 appropriations Act makes $600 million available for "assistance for State or local units of government, tenant and nonprofit organizations to purchase projects where owners have indicated an intent to prepay mortgages and for assistance to be used as an incentive to prevent prepayment or for vouchers to aid eligible tenants adversely affected by mortgage prepayment, as authorized in [NAHA]."

The FY 93 authorization is $638 million, and the FY 94 authorization is $665 million. HUD has proposed to OMB a budget request of $1.1 billion for FY 94.

G. FLEXIBLE SUBSIDY (Section 201) (Administered by the Office of Housing)

The Flexible Subsidy program provides assistance for troubled multifamily projects, as well as capital improvements for both troubled and stable projects. The program has two elements -- operating assistance for troubled projects and capital improvement loans.

The Operating Assistance component provides funds to assist in restoring the financial and physical soundness of privately owned, federally assisted multifamily housing. Operating Assistance focuses on correcting deferred maintenance, financial deficiencies, replacement reserves, and operating deficits.

The Capital Improvement Loan (SCILP) component provides funds for subsidized multifamily projects to implement major capital improvements. The program assists both stable and troubled projects that require these improvements to sustain the project's future viability.

Both elements are designed to maintain the use of the property for low- and moderate-income people, and are conditioned on the project owner's ability to provide management satisfactory to HUD.

Legal Authority: Section 201 of the Housing and Community Development Amendments of 1978, 12 U.S.C. 1715z-1a; 24 CFR 215.

Program Status: As provided by the FY 1993 appropriation Act, the Flexible Subsidy program's FY 1993 operations are to be carried out with excess section 236 rental charges and other amounts in the Flexible Subsidy Fund. No new funds were appropriated for the program for FY 1993. The HCD Act of 1992 authorized the appropriation of $52.2 million for FY 1993 and $54.4 million for FY 1994. HUD requested no funding for the program for FYs 1993 and 1994.

but see p. 4 of budget letter

H. <u>HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS (HOWPA) (Administered by the Office of Community Planning and Development)</u>

The AIDS Housing Opportunity program was established by the AIDS Housing Opportunities Act. The program gives States and localities resources and incentives to devise long-term comprehensive strategies for meeting the housing needs of persons with AIDS or related diseases and their families. Except for the receipt of housing information services, community outreach, and educational activities, beneficiaries of the program must also be low-income.

HUD awards funds appropriated for any fiscal year for the program through a formula allocation and a competitive grant process. Applicants for formula awards are the eligible States and the most populous city in the eligible metropolitan statistical areas that qualify (90% of appropriated amounts). Applicants for a competitive grant may be a State, unit of general local government, or a nonprofit organization (in cases of projects of national significance) (10% of appropriated funds)[1].

Grants may be used to provide all forms of housing assistance, including emergency housing, shared housing arrangements, apartments, single room occupancy (SRO) dwellings, and community residences. Appropriate supportive services must be provided as part of any assisted housing, but grants may also be used to provide services independently of any housing activity. Numerous activities may be carried out with grant funds, including housing information and resource identification; acquisition, rehabilitation, conversion, lease, and repair of facilities; new construction (for SROs and community residences only); project- or tenant-based rental assistance, including

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[1]A nonprofit organization can apply for a competitive grant only for a special project of national significance. A nonprofit organization, however, can also receive funding as a project sponsor under contract with a grantee.

Applicants are required to submit a certification that the proposed housing assistance is consistent with a Comprehensive Housing Affordability Strategy (CHAS) approved by HUD.

assistance for shared housing arrangements; short-term rent, mortgage, and utility payments; operating costs; technical assistance; administrative expenses; and supportive services.

Each person receiving rental assistance under the program or residing in housing assisted under the program must pay rent, including utilities, based on income under the same formula as tenants of public housing or Section 8 assisted housing.

Legal Authority: The AIDS Housing Opportunities Act (42 U.S.C. sec. 12901 et seq.), enacted as title VIII, subtitle D of NAHA and amended by section 606 of the HCD Act of 1992.

An interim rule was published at 57 FR 32106 on July 20, 1992. A second interim rule will be published shortly. See 24 CFR Part 574.

Program Status: $100 million appropriated for FY 1993. $150 million authorized for FY 1993, and $156.3 million for FY 1994. HUD's view for the FY 1994 budget is that since persons with AIDS are eligible for assistance under the homeless programs in general, and Shelter Plus Care in particular, there is no need for a separate set-aside under Annual Contributions for the Housing Opportunities for Persons with AIDS program. Accordingly, no funding has been requested for FY 1994.

I. CONGREGATE HOUSING SERVICES (Administered by the Office of Housing)

This Revised Congregate Housing Services Program authorizes grants to States, Indian tribes, units of general local government, and nonprofits (including PHAs) to provide meals and other supportive services needed by frail elderly and disabled residents of federally assisted housing to prevent their premature and unnecessary institutionalization. An independent professional assessment committee, in concert with a service coordinator appointed by the grantee, screens residents who apply for the program, determines individual eligibility for services, and recommends a service package to management.

The Revised Program was enacted in 1990. A number of projects funded under an earlier program -- the Congregate Housing Services Act of 1978 -- continue to receive funding.

Legal Authority: Revised Congregate Housing Services Program, section 802 of the Cranston-Gonzalez National Affordable Housing Act, 42 U.S.C. 8011; 24 CFR 891. Congregate Housing Services Act of 1978, 42 U.S.C. 8001 note.

<u>Program Status</u>: The FY 1993 appropriation Act appropriated $21 million for congregate services. Up to $10.8 million was made available for projects funded under the 1978 Act and the balance for the Revised program. The funding authorization is $21 million for FY 1993 and $21.9 million for FY 1994. The HUD budget proposed no funding for FYs 1993 and 1994 for congregate services.

HOME

III. THE HOME PROGRAM: HOME INVESTMENT PARTNERSHIPS (Administered by the Office of Community Planning and Development)

A. Purpose

The HOME Program provides funds to States, localities, and Indian tribes based on a formula to implement local housing strategies designed to increase the supply of housing for low-income persons.

B. Eligible Activities

The funds may be used for many housing activities, including:

- -- tenant-based rental assistance (including security deposits);
- -- assistance to first-time homebuyers;
- -- property acquisition;
- -- new construction;
- -- reconstruction;
- -- moderate or substantial rehabilitation;
- -- site improvements;
- -- demolition;
- -- relocation;
- -- administrative costs; and
- -- transition housing for the homeless.

There is a program preference for using the funds for rehabilitation. All rental assistance and all housing assisted with HOME funds is for low-income persons. Funds may not be used for tenant-based rental assistance for the special purposes of the section 8 existing housing program, matching funds for other Federal programs, public housing operating subsidies or activities authorized under the Public Housing Modernization program, or activities under the low-income housing preservation Acts of 1987 or 1990.

C. CHAS

Before receiving HOME funds, a jurisdiction must submit (and HUD must approve) its Comprehensive Housing Affordability Strategy (CHAS) and a HOME program description. The CHAS documents housing needs and the State's or community's strategic plan to address those needs. A HOME program description explains what activities the HOME funds will be used for.

D. HOME Match

Participating jurisdictions are required to match a certain amount of their HOME funds depending on the funded activity. The local match required for rehabilitation and rental assistance is 25% of the HOME funds expended and the local match for new construction is 30%. The matching requirements are reduced or waived if a jurisdiction is in fiscal distress or severe fiscal distress, respectively.

E. CHDO Set-Aside

Jurisdictions are required to reserve 15% of their HOME funds for housing to be developed, sponsored, or owned by Community Housing Development Organizations (CHDOs). A CHDO is a private, community-based nonprofit organization which has among its purposes the provision of decent affordable housing to low income persons.

F. Allocation

HOME funds are allocated in the following manner. One percent of all HOME funds are reserved for Indian tribes to be distributed on a competitive basis. There is $25 million set-aside for technical assistance. In addition, there is a set-aside for insular areas that is $750,000 or 0.2%, whichever is greater. The balance of HOME funds is allocated by formula with 60% going to cities, counties, and consortia (contiguous units of local government) and 40% for States.

HOME funds are distributed to jurisdictions based on a formula that measures the jurisdiction's share of the total need for an increased supply of affordable housing. States that meet other application requirements receive their formula allocation or $750,000, whichever is greater. Local jurisdictions need a formula allocation of at least $~~375,000~~ 500,000 to be eligible for funds. A locality that does not reach the minimum amount can still be eligible for funds if the locality can obtain other funds (local or State, or HOME funds allocated to the State) to fill the gap between their formula amount and the minimum.

Legal Authority: Title II of the National Affordable Housing Act, 1990 (42 U.S.C. 12701 et seq.).

Program Status: The FY 1993 appropriation is $1 billion. The FY 1993 authorization is $2.1 billion and the FY 1994 authorization is $2.2 billion. HUD has proposed to OMB a budget request of $600 million for FY 1994.

HOPE

IV. HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE PROGRAMS

A. HOPE FOR PUBLIC AND INDIAN HOUSING HOMEOWNERSHIP (HOPE 1) (Administered by the Office of Public and Indian Housing)

HOPE 1 provides HOPE grants for public and Indian housing homeownership in order to make homeownership possible for the tenants and other low-income families.

Properties eligible for purchase under HOPE 1 include all existing rental public and Indian housing units.

An applicant for HOPE 1 grants may be any of the following entities representing the tenants of the project: PHA (including IHA), resident management corporation (RMC), resident council (RC), cooperative association, public or private nonprofit organization, or public body (or an agency or instrumentality thereof).

Eligible families under the HOPE 1 program include (1) families or individuals who are tenants in the public or Indian housing project on the date HUD approves the implementation grant; (2) low-income families; and (3) families or individuals assisted under a HUD or Agriculture housing program, excluding any mortgage insurance program.

Eligible activities for HOPE 1 Planning Grants include:

- development of RCs and RMCs;
- training and technical assistance related to developing a specific homeownership program;
- feasibility studies;
- preliminary architectural and engineering work;
- tenant and homebuyer counseling and training;
- development of job training and other economic programs designed to promote economic self-sufficiency;
- development of security plans; and
- preparation of HOPE 1 Implementation Grant applications.

HOPE 1 Planning Grants do not have a matching requirement.

Eligible activities for HOPE 1 Implementation Grants include:

- architectural and engineering work;
- implementation of the program;

- -- rehabilitation of a housing project covered by a HOPE 1 homeownership program, and temporary relocation of residents necessitated by any such rehabilitation;
- -- administrative costs, not to exceed 15% of the assistance provided;
- -- development of RCs and RMCs if no assistance was received as a HOPE 1 Planning Grant for this purpose;
- -- counseling and training homebuyers and homeowners;
- -- relocation of tenants electing to move;
- -- funding of operating expenses and replacement reserves of a project covered by a HOPE 1 homeownership program;
- -- implementation of a replacement housing plan;
- -- legal fees;
- -- subsidizing costs for training necessitated by implementation of the homeownership program; and
- -- development of job training and other economic programs designed to promote economic self-sufficiency.

HOPE 1 Implementation Grants require a match of 25% of the grant amount from non-Federal sources. This match may be reduced if the grantee is in a distressed community.

Legal Authority: Title III of the U.S. Housing Act of 1937 (42 U.S.C. 1437aaa et seq.).

Program Status: The FY 1993 appropriation is $161 million. The FY 1993 authorization is $285 million and the FY 1994 authorization is $294.547 million. HUD has proposed to OMB a budget request of $450 million for FY 1994.

B. HOPE FOR HOMEOWNERSHIP OF MULTIFAMILY UNITS (HOPE 2) (Administered by the Office of Housing)

HOPE 2 provides HOPE grants for providing homeownership opportunities in certain multifamily projects.

Properties eligible for purchase under HOPE 2 include multifamily rental property either:

- -- owned or held by HUD;
- -- financed by a loan or mortgage held or insured by HUD;
- -- determined by HUD to have serious physical or financial problems under the terms of a HUD-administered insurance or loan program; or
- -- owned or held by Agriculture, RTC, FDIC, DOD, DOT, GSA, any other Federal agency, or a State or local government (or an agency or instrumentality thereof).

An applicant for HOPE 2 grants may be any of the following entities representing the tenants of the project: PHA (including IHA), RMC, RC, cooperative association, public or private nonprofit organization, public body (including an agent or instrumentality thereof), or a mutual housing association.

Eligible families under the HOPE 2 program are families or individuals who are tenants of an eligible property on the date HUD approves the implementation grant or whose incomes do not exceed 80% of the area median.

Eligible activities for HOPE 2 Planning Grants include:

-- development of RCs or RMCs;
-- training and technical assistance related to developing a specific homeownership program;
-- feasibility studies;
-- preliminary architectural and engineering work;
-- tenant and homebuyer counseling and training;
-- development of job training and other economic programs designed to promote economic self-sufficiency;
-- development of security plans; and
-- preparation of HOPE 2 Implementation Grant applications.

HOPE 2 Planning Grants do not have matching requirements.

Eligible activities for HOPE 2 Implementation Grants include:

-- architectural and engineering work;
-- acquisition of eligible property for the purpose of transferring ownership to families eligible under a HOPE 2 homeownership program;
-- rehabilitation of a housing project covered by a HOPE 2 homeownership program, and temporary relocation of residents necessitated by any such rehabilitation;
-- administrative costs, not to exceed 15% of the assistance provided;
-- development of RCs and RMCs if no assistance was received as a HOPE 2 Planning Grant for this purpose;
-- counseling and training homebuyers and homeowners;
-- relocation of tenants electing to move;
-- funding of operating expenses and replacement reserves of a project covered by a HOPE 2 homeownership program;
-- legal fees;
-- subsidizing costs for ongoing training necessitated by implementation of the homeownership program; and
-- planning for and development of job training and other economic programs designed to promote economic self-sufficiency, including planning for the establishment

of for- or not-for-profit small businesses by and on behalf of residents.

HOPE 2 Implementation Grants require a 33% match of the grant amount from non-Federal sources.

<u>Legal Authority</u>: Subtitle B of title IV of the National Affordable Housing Act (42 U.S.C. 12871 *et seq.*).

<u>Program Status</u>: The FY 1993 appropriation is $95 million. The FY 1993 authorization is $285 million and the FY 1994 authorization is $294.547 million. HUD has proposed to OMB a budget request of $325 million for FY 1994.

C. <u>HOPE FOR HOMEOWNERSHIP OF SINGLE FAMILY HOMES (HOPE 3) (Administered by the Office of Community Planning and Development)</u>

HOPE 3 provides HOPE grants to provide homeownership opportunities through the transfer of ownership of publicly-held properties in Federal, State, and local inventories to families whose incomes do not exceed 80% of median income, who are not currently homeowners, and who could not otherwise afford to purchase a home.

An applicant for a HOPE 3 grant may be a private nonprofit organization, a cooperative association, or a public agency (including an agency or instrumentality thereof) in cooperation with a private nonprofit organization.

Eligible families under the HOPE 3 program are defined as families or individuals whose incomes do not exceed 80% of median income and who are first-time homebuyers.

Properties eligible for purchase under HOPE 3 include single family homes (four units or fewer) owned by HUD, VA, RTC, FDIC, DOD, DOT, GSA, Agriculture, any other Federal agency, a State or local government, or a public or Indian housing authority (excluding public and Indian housing under the United States Housing Act of 1937 and including properties held by institutions within the jurisdiction of the RTC).

Eligible activities for HOPE 3 Planning Grants include:

-- identifying eligible properties;
-- training and technical assistance related to developing a specific homeownership program;
-- feasibility studies;
-- preliminary architectural and engineering work;
-- homebuyer counseling and training;

- development of job training and other economic programs designed to promote economic self-sufficiency for homebuyers and homeowners;
- development of security plans; and
- preparation of HOPE 3 Implementation Grant applications.

HOPE 3 Planning Grants do not have a matching requirement.

Eligible activities for HOPE 3 Implementation Grants include:

- architectural and engineering work;
- acquisition of property for the purpose of transferring ownership to families eligible under a HOPE 3 homeownership program;
- rehabilitation of a housing project covered by a HOPE 3 homeownership program, and any necessary temporary relocation of homebuyers during rehabilitation;
- administrative costs, not to exceed 15% of the assistance provided;
- counseling and training homebuyers and homeowners;
- relocation of homebuyers electing to move;
- legal fees;
- subsidizing costs for ongoing training necessitated by implementation of the homeownership program; and
- development of job training and other economic programs designed to promote self-sufficiency of homebuyers and homeowners.

HOPE 3 Implementation Grants require a 33% match of the grant amount from non-Federal sources.

Legal Authority: Subtitle C of title IV of the National Affordable Housing Act (42 U.S.C. 12891 et seq.).

Program Status: The FY 1993 appropriation is $95 million. The FY 1993 authorization is $285 million and the FY 1994 authorization is $294.547 million. HUD has proposed to OMB a budget request of $225 million for FY 1994.

D. HOPE FOR YOUTH: YOUTHBUILD (Administrative responsibilities not yet assigned)

Youthbuild is a new program which provides economically disadvantaged youths with jobs in programs that expand the supply of affordable housing for homeless individuals and members of low- and very low-income families. Youthbuild not only provides these individuals with a meaningful opportunity to work, but also enables them to obtain the skills and education necessary to become self-sufficient.

Public or private nonprofit agencies eligible to apply for Youthbuild grants include community-based organizations, administrative entities designated under the Job Training Partnership Act, community action agencies, State or local housing development agencies, community development corporations, State or local youth service and conservation corps, and any other entities eligible to provide education and employment training under other Federal employment training programs.

Eligible participants in the Youthbuild program include individuals ages 16 through 24, at least 75% of whom are either very low-income individuals or members of very low-income families, and who have dropped out of high school. Up to 25% of the participants need not meet the income or educational requirements, but must have educational needs despite having attained a high school diploma or its equivalent. Any individual selected for full-time participation in the program may be offered full-time participation for a period of not less than 6 months and not more than 24 months.

Eligible activities for Youthbuild Planning Grants include:

-- feasibility studies of a Youthbuild program;
-- establishment of a consortia between youth training and education programs and housing owners and developers;
-- identification and selection of a site;
-- preliminary architectural and engineering work;
-- identification and training of staff;
-- planning for education, job training, and other services that will be provided as part of the Youthbuild program;
-- other planning, training, or technical assistance necessary before commencing a Youthbuild program; and
-- preparation of Youthbuild Implementation Grant applications.

Eligible activities for Youthbuild Implementation Grants include:

-- architectural and engineering work;
-- acquisition, rehabilitation, acquisition and rehabilitation, or construction of housing and related facilities to be used for the purposes of providing homeownership opportunities under HOPE 2 and HOPE 3, or for the purposes of providing housing for low-income, very low-income, or homeless persons, or other persons with special needs;

- -- administrative costs, not to exceed 15% of the assistance provided, or such higher percentage if deemed necessary HUD;
- -- education and job training services and activities;
- -- wage stipends and benefits provided to participants;
- -- funding of operating expenses and replacement reserves of property covered by the Youthbuild program;
- -- legal fees; and
- -- defraying costs for the ongoing training and technical assistance needs of the recipient that are related to developing and carrying out the Youthbuild program.

Legal Authority: Subtitle D of title IV of the National Affordable Housing Act (42 U.S.C. 12871 et seq.), as added by section 164 of the Housing and Community Development Act of 1992.

Program Status: Section 181(a) of the Housing and Community Development Act of 1992 provides that funding for HOPE for Youth is to come from the HOPE Homeownership programs. The FY 1993 authorization for HOPE for Youth is up to $40 million, but not less than 5% of the amounts appropriated for HOPE 1, 2, and 3, and the FY 1994 authorization is up to $41.68 million, but not less than 5% of the total amount appropriated for HOPE programs. This set-aside makes available not less than $17.55 million for HOPE for Youth in FY 1993.

E. HOPE FOR ELDERLY INDEPENDENCE (Administered by the Office of Public and Indian Housing)

HOPE for Elderly Independence is a demonstration program to test the effectiveness of combining Certificates and Housing Vouchers with supportive services to assist frail elderly persons to continue to live independently.

Under this program, HUD may enter into contracts with public housing authorities to provide no more than 1,500 incremental Vouchers and Certificates under the section 8 program. These Certificates and Vouchers are available to eligible elderly persons. Depending on the availability of supportive services, the PHA may restrict residency to a certain geographic area, but not to a specific structure or unit. At the close of the demonstration, elderly participants must be given the option to continue to receive assistance from the PHA in the form of regular Certificates or Vouchers.

Under this program, HUD provides the housing assistance plus 40% of the total costs of supplemental services. Participating PHAs are required to contribute 50% of the funding necessary from sources other than this program, and an elderly person receiving assistance is required to pay 10% of the total cost (with some exceptions).

<u>Legal Authority</u>: Section 803 of the National Affordable Housing Act (42 U.S.C. 8012 *et seq.*).

<u>Program Status</u>: The FY 1993 appropriation is $10 million. The FY 1993 authorization is $10 million and the FY 1994 authorization is $10.42 million. HUD has proposed to OMB a budget request of $10.2 million for FY 1994.

McKinney
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V. MCKINNEY HOMELESS HOUSING ASSISTANCE (Administered by the Office of Community Planning and Development, except for the Interagency Council which is an independent agency and the FHA single family property disposition homeless program which is administered by the Office of Housing)

A. INTERAGENCY COUNCIL ON THE HOMELESS.

Title II of the McKinney Act established an independent agency in the executive branch known as the Interagency Council on the Homeless. This entity is the successor to the Federal Task Force on the Homeless of the Department of Health and Human Services. Its members are the heads of seventeen various departments and agencies, including the Secretary of HUD, or the Secretary's designee. The Council elects a Chairperson and Vice Chairperson from among its members, and appoints an Executive Director. (The Secretary of HUD has served as chairperson since the Council's inception in 1987.) The Executive Director may appoint additional personnel, and request other agencies to detail personnel to the Council.

The Council has various duties, including the review of all Federal activities and programs to assist the homeless; taking actions to reduce duplication among such programs and activities; holding regional workshops; and preparing and distributing a bi-monthly bulletin that describes Federal resources available to assist the homeless, with information on application deadlines and contacts in each agency.

Each Federal agency member of the Council is required to prepare and transmit to the Congress and the Council an annual report on its homeless programs and activities. The Council is required to prepare and transmit to the President and the Congress an annual report.

Each State is encouraged to establish a State interagency council on the homeless or designate a lead agency to coordinate with the Council.

The Council has a termination date, which was extended to October 1, 1994, by the Housing and Community Development Act of 1992.

Legal Authority: Title II of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 1311 et seq.)

Program Status: The FY 1993 appropriation is $900,000. The authorization for FY 1993 is $1.5 million and the authorization for FY 1994 is $1.6 million. HUD has proposed to OMB a budget request of $1.3 million for FY 1994. The Council terminates on October 1, 1994.

B. EMERGENCY SHELTER GRANTS (ESG)

The Emergency Shelter Grants (ESG) program is designed to supplement State, local, and private efforts to provide emergency shelter assistance for the homeless. It authorizes HUD to make grants to States, units of general local government, and Territories (Guam, American Samoa, etc.). There is a set-aside of one percent of the total ESG appropriation for each fiscal year for Indian Tribes and Alaskan Native Villages.

Amounts are allocated to States and certain cities and counties on the basis of the CDBG allocation formula. States must pass through all their ESG amounts to units of government or private nonprofits within the States. Units of government that receive ESG amounts may pass all or part of the assistance through to private nonprofits. Indian Tribes and Alaskan Native Villages compete for the funds available through the set-aside, and may use all of the grant themselves for emergency shelter projects or pass it on to private nonprofit organizations.

The purpose of the ESG program is to improve the quality of existing emergency shelters for the homeless, to help make available additional emergency shelters, and to help meet the costs of operating emergency shelters and of providing certain essential social services to homeless individuals. ESG program funds may be used for the conversion, rehabilitation, or renovation of buildings for use as emergency shelters. Program funds can also be used for the payment of operating or essential services expenses, and for homeless prevention activities. There are 30% caps on the amount of assistance grantees can use for essential services and homeless prevention activities, although the cap on essential services may be waived.

Grantees other than States and Territories must match ESG grants dollar-for-dollar from non-ESG sources. States are not required to match the first $100,000 of a grant. With the exception of homeless prevention activities, a grantee must agree to use the property involved as a homeless shelter for a specified period. In the case of expenditures for major rehabilitation or conversion, this period is 10 years.

Legal Authority: Subtitle B of title IV of the McKinney Act (42 U.S.C. 11371 et seq.); 24 CFR 576.

Program Status: The FY 1993 appropriation is $50 million. The FY 1993 authorization is $138 million and the FY 1994 authorization is $143.8 million. HUD has proposed to OMB that no funding for this program be included in the budget for FY 1994.

(150) Shelter Plus + (150) SRO + (600M) >> 900M Sup-NOFA

C. SUPPORTIVE HOUSING PROGRAM

The Supportive Housing program is designed to promote the development of housing and supportive services for the homeless. The program consists of three components: transitional housing[2], permanent housing for homeless persons with disabilities[3], and housing that is, or is part of, a particularly innovative development for, or alternative method of, meeting the needs of homeless persons.[4]

Applicants for HUD assistance may be States; Indian tribes; cities, counties, or other governmental entities; private nonprofits; and community mental health associations that are public nonprofits. HUD provides assistance of up to $200,000 (up to $400,000 in designated high cost areas), for acquisition and rehabilitation of structures; up to $400,000 for new construction; and for leasing (no amount specified). Assistance provided for acquisition, rehabilitation, and new construction must be matched equally with funds from sources other than the Supportive Housing program. Assistance for operating costs is also available for up to 75% of annual operating costs and for supportive services (no amount specified). In addition, HUD may provide technical assistance, which does not involve a grant of money.

Residents of supportive housing may be required to pay an occupancy charge in an amount determined by the recipient

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[2]Transitional housing is housing whose purpose is to facilitate the movement of homeless individuals and families to permanent housing generally within 24 months.

[3]Permanent housing for homeless persons with disabilities is community-based, long-term housing and supportive services for homeless persons with disabilities. These developments are limited to 8 persons in a single structure or contiguous structures; 16, if no more than 20% of the units are designed for homeless persons with disabilities; and over 16, depending on local market conditions and the neighborhood. There is no limitation on the length of time residents may live in permanent housing, although one of the goals of the program is to help residents gain the ability to live independently.

"Disability" is defined to include certain long-term physical, mental, or emotional impairments and AIDS.

[4]This component comes from the Supplemental Assistance for Facilities To Assist the Homeless (SAFAH) program, which was terminated as a separate McKinney Act program by the HCD Act of 1992, and folded into the Supportive Housing program.

providing the housing. That charge is capped at the amount that would be due under the 1937 Act tenant rent formula. Occupancy charges may be used to assist residents in moving to permanent housing.

Supportive services may include child care; employment assistance; outpatient health services, food and case management; assistance in obtaining permanent housing, and employment and nutritional counseling; security arrangements; and assistance in obtaining other Federal, State, and local assistance. These services may also be provided to homeless individuals who do not reside in supportive housing.

Legal Authority: Subtitle C of title IV of the McKinney Act (42 U.S.C. 11381 *et seq*.); 24 CFR 577 (transitional housing) and 578 (permanent housing).

Program Status: The appropriation for FY 1993 is $150 million ($100 million will be used for assistance under the revised program and $50 million for renewals of assistance provided previously). For the new consolidated program, $204 million was authorized for FY 1993 and $212.6 million was authorized for FY 1994. (Of these authorized amounts, three set-asides are required of at least 25%, 25%, and 10%, for developments designed primarily to serve homeless families with children, developments designed primarily for homeless persons with disabilities, and for supportive services not provided in conjunction with supportive housing, respectively.) HUD has proposed to OMB a budget request of $204 million for FY 1994.

D. SAFE HAVENS FOR HOMELESS INDIVIDUALS DEMONSTRATION Program

The Safe Havens for Homeless Individuals Demonstration program is a new program, established by the HCD Act of 1992. Grants may be made to nonprofits, public nonprofits, States, and units of local government. The purposes of the program are to demonstrate the desirability and feasibility of providing very low-cost housing ("safe havens") to homeless persons who (1) are seriously mentally ill and reside primarily in places such as the streets, and (2) are unwilling or unable to participate in mental health treatment programs or receive other supportive services. Residents will, however, be monitored to determine whether, after a period of residence in a safe haven, they are willing to participate in treatment programs and move toward a more traditional form of permanent housing.

A safe haven is a facility that provides 24-hour residence for an unspecified period of time, with private or semi-private accommodations, and is limited to 25 persons. Adequate security must be provided and, if practicable, 24-hour on-site management.

Grants may be made for new construction, acquisition, and rehabilitation; leasing; operating costs; administration (up to 10% of the amounts made available for construction, acquisition, rehabilitation, leasing and operating costs); outreach; and to cover 50% of the cost of providing low-demand services and referrals.

Assistance for leasing, operating and administrative costs, outreach, and low-demand services and referrals may be provided for up to five years, with the possibility of one extension up to five years. The assistance is limited to $400,000 per recipient for any five-year period. Assistance must be matched on a dollar-for-dollar basis with funds from sources other than programs under title IV of the McKinney Act.

Residents will be required to pay an occupancy charge in an amount determined by the recipient of the grant. That charge is capped at the amount that would be due under the 1937 Act tenant rent formula. The recipient may waive the occupancy charges for limited periods of time for residents unwilling or unable to pay them. Occupancy charges paid may be used to assist residents in moving to a more traditional form of permanent housing.

Legal Authority: Subtitle D of title IV of the McKinney Act (42 U.S.C. sec. 11361 *et seq.*), as added by section 1404 of the HCD Act of 1992.

Program Status: No funds were appropriated for this program for FY 1993. The FY 1993 authorization is $62 million and the FY 1994 authorization is $64.6 million. HUD has proposed to OMB a budget request of $50 million for FY 1994.

E. SECTION 8 ASSISTANCE FOR SINGLE ROOM OCCUPANCY (SRO) HOUSING FOR THE HOMELESS

The McKinney Act authorizes budget authority to be used for single room occupancy (SRO) housing[5] for the homeless under the Section 8 Moderate Rehabilitation program. Efficiency units are also eligible if the owner agrees to cover the additional cost of rehabilitation and operation.

The Section 8 assistance is in the form of rental assistance payments. These payments equal the rent for the unit, including

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[5]An SRO unit is a unit that lacks a kitchen or a bathroom, or both.

utilities, minus the portion of the rent payable by the tenant under the 1937 Act formula.

To qualify for assistance, the property to be rehabilitated must need at least $3,000 per unit of rehabilitation work to bring the unit up to housing quality standards (HQS). The property owner must provide or obtain funds (including loans) to pay the rehabilitation costs. The rental assistance payments provided under the program cover operating expenses of the moderately rehabilitated SRO housing, including debt service to retire the cost of the rehabilitation over a 10-year period.

HUD allocates the amounts made available on the basis of a national competition. Applicants may be PHAs, IHAs, and private nonprofit organizations. No single city or urban county can receive more than 10% of the assistance made available.

The total cost of rehabilitation that may be compensated for in a contract for housing assistance payments entered into between a successful applicant and the owner is capped at $15,500 per unit, plus the expenditures for fire and safety improvements. This $15,500 cap may be increased by HUD to take account of special local conditions, including high construction costs and stringent fire or building codes. HUD also increases the cap annually to take account of construction costs.

Each contract for annual contributions entered into between HUD and an approved applicant provides for an aggregate period of assistance for 10 years. HUD may renew the contract for an additional 10-year period, subject to the availability of appropriations.

<u>Legal Authority</u>: Section 441 of the McKinney Act (42 U.S.C. 11401) and sections 8(e)(2) and 8(n) of the U.S. Housing Act of 1937 (42 U.S.C. 1437f); 24 CFR 882.801 <u>et seq</u>.

<u>Program Status</u>: The FY 1993 appropriation is $105 million. The FY 1993 authorization is $105 million and the FY 1994 authorization is $109.4 million. HUD has proposed to OMB a budget request of $17.3 million for FY 1994 for a revised, simplified SRO program that is independent of the section 8 program.

F. <u>SHELTER PLUS CARE</u>

The National Affordable Housing Act amended the McKinney Act to create a new program for the homeless called Shelter Plus Care (S+C). The program was amended by the HCD Act of 1992. The program provides rental housing assistance in connection with supportive services to be provided by the recipient from sources other than the S+C program. The assistance is provided to homeless persons with disabilities (primarily those who are seriously mentally ill; have chronic problems with alcohol, drugs, or both[6]; or have AIDS) and their families[7]. Assistance is targeted to homeless persons with disabilities that are currently sleeping in emergency shelters or places not designed as sleeping accommodations for human beings (e.g., parks, sidewalks, and abandoned buildings).

HUD provides rental assistance for five or 10 years; renewal is possible. Applicants for assistance may be States, local governments, Indian tribes, or public housing agencies.

Recipients must match the rental assistance by supportive services that are at least equal in value to the aggregate amount of rental assistance and appropriate to the needs of the population to be served.

Recipients may provide a variety of housing situations, such as group settings or individual units. The housing to be provided must meet the applicable housing quality standards (HQS).

The occupancy agreement between a tenant and an owner of housing assisted under the program must be for at least a month. Participants in the program must pay rent based on income under the 1937 Act formula. Although homeless persons often will not have an income when they enter the S+C program, through the supportive services provided, many should at some point become gainfully employed or be receiving some type of income support payments, such as Supplemental Security Income.

The S+C programs provides assistance through four components: (1) Tenant-Based Rental Assistance[8], (2) Project-

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[6]To the maximum extent practicable, HUD is required to reserve at least 50% of the S+C funds for homeless individuals that are seriously mentally ill or have chronic problems with alcohol, drugs, or both.

[7]Families are not eligible for the SRO component of the program.

[8]The Tenant-Based component provides grants to be used for rental assistance in accordance with a flexible housing plan to be developed by the applicant to fit the needs of the homeless population to be served.

Based Rental Assistance[9], (3) Sponsor-Based Rental Assistance[10], and (4) Section 8 Moderate Rehabilitation Assistance for Single Room Occupancy (SRO) Dwellings[11]. Applicants may apply for assistance under any one of the four components, or a combination. Selection is on a nationwide competitive basis.

Of the amount appropriated for the S+C program, at least 10% must be available for implementing each of the four components. No more than 10% of the assistance available for any fiscal year may be used for programs located within any one unit of general local government.

Legal Authority: Subtitle F of title IV of the McKinney Act (42 U.S.C. sec. 11403 *et seq.*), as amended by section 1406 of the HCD Act of 1992; 24 CFR 582.

Program Status: The FY 1993 appropriation is $266.55 million. The FY 1993 authorization is $266.55 million and the FY 1994 authorization is $277.7 million. HUD has proposed to OMB a budget request of $266 million for FY 1994.

G. FHA SINGLE FAMILY PROPERTY DISPOSITION

This program provides single family homes acquired by HUD through FHA foreclosures and assignments to homeless persons and families. It was not established by statute but by HUD initiatives[12]. There are, however, provisions regarding the program in NAHA and the HCD Act of 1992.

The purpose of this program is to aid homeless persons and families by providing them with transitional housing and appropriate supportive services with the goal of helping them move to independent living. Use of the HUD-acquired properties by lessees is with the understanding that the housing provided is

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[9] The Project-Based component provides grants to owners of existing units that are occupied by eligible participants.

[10] The Sponsor-Based component provides grants to eligible applicants to enter into contracts with private nonprofit entities to be used for rental assistance by these sponsor organizations.

[11] The SRO component provides rental assistance for homeless individuals in rehabilitated SRO housing.

[12] No CHAS is required to seek assistance under this program since it is not a McKinney Act program.

transitional and the occupants are expected to seek and obtain permanent housing within two years.

The program consists of three initiatives. Properties are available for --

(1) lease,

(2) lease with option to purchase in connection with the McKinney Act Supportive Housing program, or

(3) sale.

However, in general, HUD may not make any property available for lease under this program unless it has been listed and made generally available for sale for at least 30 days[13].

1. Under the lease with option to purchase initiative, HUD Field Offices make available up to 10% of HUD-held single-family properties at a rent of $1.00 a year. A lessee may charge tenants rent to help recover costs. The rent charged is based on the occupant's ability to pay, but may not exceed the 1937 Act tenant rent formula. The rent may also not exceed the occupant's pro rata share of the lessee's costs of operating the property. The maximum lease term is five years (in one-year increments) and lessees must execute a sublease with occupants limiting an occupant's tenancy to two years.

2. Under the second initiative, HUD makes properties available to applicants for acquisition grants under the Supportive Housing program, using a lease with option to purchase. The organization leases the property for a six-month period for $1.00. During the six-month period, under certain conditions, the applicant may be allowed to sublease the property. If Supportive Housing funds are awarded to the applicant, the awardee may purchase the property for not less than 90% of HUD's estimate of fair market value. If the applicant does not receive Supportive Housing funding, the lease with option to purchase may be converted to the standard lease program under option 1.

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[13]If HUD determines that there will not be a sufficient quantity of decent, safe, and sanitary affordable housing in an area for the homeless if the properties are made available for the 30-day period, HUD may reserve up to 10% of the total number of eligible properties for the program for the disposition of single-family properties for the homeless, and that 10% need not be marketed for the 30 days. HUD is required to consult with the relevant local government concerning which properties should be reserved.

3. Under the third initiative, properties are available for competitive sale (through a sealed bid process in competition with other bidders) or direct sale for fair market value, minus a 10% discount.

Applicants, which must be pre-approved by HUD, may be States, metropolitan cities, urban counties, governmental entities, Indian tribes, or private nonprofit organizations.

Legal Authority: Section 1407 of the HCD Act of 1992 (P.L. 102-550); 24 CFR 291.400 et seq.

Program Status: There is no separate funding authority in connection with this program. The activities involved are staff functions paid for by the Salaries and Expenses account. (There is, however, an impact on the FHA Insurance Fund.)

H. RURAL HOMELESS HOUSING ASSISTANCE

The HCD Act of 1992 authorized HUD to establish and carry out a new Rural Homelessness Grant program (no funding is available). Private nonprofit entities, Indian tribes, and county and local governments can apply for the grants.

HUD may award grants to pay for 75% of the cost of: assisting programs providing direct emergency assistance to the homeless; providing homelessness prevention assistance to those at risk of becoming homeless; and assisting persons in securing permanent housing and supportive services. The non-Federal share of the cost of providing the assistance is to be in cash or in kind (plant, equipment, staff services, or services delivered by volunteers).

A grantee may use the funds in rural areas for a variety of things, including rent, mortgage, or utility assistance after two months of nonpayment to prevent eviction, foreclosure, or loss of utility service; security deposits; transitional housing; rehabilitation and repairs; and the development of comprehensive and coordinated support services that use and supplement community networks of services.

HUD must set aside at least 50% of the funds appropriated for a fiscal year for grants to eligible organizations serving communities with fewer than 10,000 people. Of that set-aside, HUD is to give priority to eligible organizations serving communities with fewer than 5,000 people.

HUD is also required to give priority in making grants both from the general funds and from the set-aside funds to eligible organizations serving communities not currently receiving significant Federal assistance under the McKinney Act.

There is a 10% cap on the amount of funds that can be awarded within any one State.

Legal Authority: Section 1408 of the HCD Act of 1992 (P.L. 102-550), Subtitle G of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. _____ *et seq*).

Program Authority: There is no FY 1993 appropriation. The FY 1993 authorization is $30 million and the FY 1994 authorization is $31.3 million. HUD has not requested funding for FY 1994.

I. USE OF UNUTILIZED AND UNDERUTILIZED PUBLIC BUILDINGS AND REAL PROPERTY TO ASSIST THE HOMELESS

On a quarterly basis, HUD canvasses Federal agencies to collect information about real property (vacant land or buildings) described as unutilized, underutilized, excess[14], or surplus[15], in surveys conducted by the agencies.

After receiving the information, HUD identifies those properties that are suitable for use as a facility to assist the homeless. Then, HUD informs the agencies of its determinations as to suitability, and the agencies advise HUD if the property is available or unavailable (for reasons such as a compelling Federal need).

There are deadlines to ensure that the process moves expeditiously; procedures for representatives of the homeless[16] to appeal the determinations made; and requirements for HUD to maintain records of the properties identified and other information and to make this information available to the public through publication in the Federal Register, annual reports, and

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[14]"Excess property" is any property under the control of any Federal agency that is not required for its needs and the discharge of its responsibilities, as determined by the agency head.

[15]"Surplus property" is any excess property not required for the needs and the discharge of the responsibilities of any Federal agency, as determined by GSA.

[16]"Representative of the homeless" is a State or local government agency, or private nonprofit organization, which provides services to the homeless.

other methods. HUD is required to transmit to the Interagency Council on the Homeless a copy of the list of properties available for application for use to assist the homeless. The Interagency Council is required to distribute area-relevant portions of that list to all State and regional homeless coordinators. HUD, GSA, and HHS are required to ensure the widest possible dissemination of the information on this list.

There is a 60-day holding period for available properties, during which time they are available only for use to assist the homeless. They may remain available to assist the homeless after the 60-day period under certain circumstances, such as where there is no application to use the property for another purpose nor an offer to buy it.

Representatives of the homeless apply to HHS for available property for use to assist the homeless. If approved by HHS, the property is made available by permit or lease of at least one year, or deed to the homeless representative at no cost.

Legal Authority: Section 501 of the McKinney Act (42 U.S.C. sec. 11411), (recently amended by section 2824 of the National Defense Authorization Act for Fiscal Year 1993 (P.L. 102-484)); 24 CFR 581.1 et seq.

Program Status: There is no separate funding authority in connection with this program. The expenses involved are paid out of the Salaries and Expenses account.

VI. MORTGAGE AND LOAN INSURANCE AND COINSURANCE (Administered by the Office of Housing (administrative responsibility for the Loan Guarantees for Indian Housing program has not yet been assigned)

Through the Federal Housing Administration -- FHA, HUD provides insurance for mortgages and loans placed by private lenders on manufactured homes, single family and multifamily properties, and certain health and related facilities. This Federal role is designed to encourage lenders to make mortgage credit available in areas and to borrowers who may not otherwise qualify for conventional loans on affordable terms, such as first-time homebuyers.

Under FHA's authorities, which are numerous and contain a host of differing features, the Department's role is essentially that of an insurance company. Consistent with statutory requirements, HUD will make insurance available in connection with lenders, borrowers, and properties that meet minimum requirements. Down payment requirements vary by program, but are generally less rigorous than those required by conventional lenders. All borrowers pay interest on the loan at a rate that is negotiated with the lender.

All borrowers must pay a mortgage insurance premium (MIP) to offset the insurance risk involved. HUD uses both "one-time" (for most single family mortgages) and "periodic" methods of collecting MIP. The one-time MIP is collected at the front end (insurance endorsement). It cannot exceed 3.0% of the original principal amount of the loan for FYs 1993 and 1994 or 2.25% for FY 1995 and future years, and may be added to the loan amount and paid off along with the rest of the loan. In addition, for the basic single family mortgage insurance program, an annual premium is payable, which may not exceed 0.5% of the outstanding principal balance for the full term of the mortgage or a shorter period for lower-risk loans with lower loan-to-value ratios.

Borrowers who prepay their loans in the early years of the mortgage are entitled to a "rebate" of the part of the one-time MIP that HUD has collected but not "earned."

The periodic MIP alone is used for certain other single family programs (such as the condominium unit insurance program), and for all multifamily authorities. The periodic MIP is assessed by applying a fixed percentage (generally up to 1% per year by statute, less by regulation) to the outstanding balance of the loan during amortization.

If a loan goes into default, HUD will provide insurance benefits to the lender consistent with the contract of insurance. This is normally accomplished by HUD taking an "assignment" of the mortgage. In return for paying insurance benefits to the lender, the lender turns the mortgage over to HUD, which makes HUD the owner of the mortgage. HUD offsets its insurance losses through the foreclosure of insured mortgages and sale of the properties.

With full insurance, HUD insures the entire loan indebtedness, pays insurance claims on this 100% basis, and generally takes an assignment of the mortgage. The multifamily Coinsurance programs have either been terminated, due to "structural flaws," or are inactive. The single family Coinsurance program is still in effect, but is not often used.

FHA operates its programs through four Insurance Funds. The two largest are the Mutual Mortgage Insurance Fund (MMIF) and the General Insurance Fund (GIF). The MMIF is the largest of the Funds, and includes HUD's basic home mortgage insuring program.

The GIF is the "catch-all" Fund. It includes a number of insurance programs, including most of FHA's multifamily insuring authorities, and single family insurance for condominium units, Indians, and Hawaiian Homelands. The GIF operates "in the red," and needs annual appropriations to make it whole. The other funds are the Special Risk Insurance Fund (SRIF) and the Cooperative Management Housing Insurance Fund (CMHIF).

These Funds receive program income (such as MIP) and make necessary payments (such as the payment of insurance benefits in the event of borrower default).

The following is a brief description of the most significant insuring authorities.

A. <u>SINGLE FAMILY PROPERTIES</u>

-- <u>Basic Home Mortgage Insurance: section 203(b) of the National Housing Act (NHA)</u>. HUD's most active single family insuring authority. Maximum mortgage amounts are set by both dollar amounts and "loan-to-value" ratios. In accordance with the HCD Act of 1992 (and the 1993 appropriations Act), the dollar limits can go as high as $151,725 for a one-family dwelling. The most advantageous "loan-to-value" requirements are 97% of the first $25,000 of appraised value and 95% of the remainder (for homes under $50,000, the ratio is 97% of the full amount).

<u>Legal Authority</u>: Section 203(b) of the National Housing Act (12 U.S.C. 1709(b)); 24 CFR Part 203.

<u>Program Status</u>: Active.

-- Section 203(b) "clones." HUD administers a number of programs that are based upon section 203(b), but that have special features. The major ones are:

- -- Graduated Payment Mortgages. This program is designed to match mortgage payments to borrowers' current and future incomes, and is considered to be an important resource for "first-time homebuyers" who may not have current incomes adequate to support payments under a level-payment mortgage. Under the program, the borrower pays reduced mortgage payments in the early years of the mortgage. Any interest that accrues, but is unpaid because of the reduced payments, is added to the balance of the loan. Mortgage payments rise according to pre-established schedules, so that the entire loan can be retired within the original loan term.

  Legal Authority: Section 245 of the National Housing Act (12 U.S.C.1715z-10); 24 CFR 203.45.

- -- Adjustable Rate Mortgages. This program provides for reduced-rate financing, with periodic increases in the effective interest rate based on market indices approved by HUD. Any single interest rate increase may not exceed 1%, with maximum 5% increase over the life of the loan.

  Legal Authority: Section 251 of the National Housing Act (12 U.S.C. 1715z-16); 24 CFR 203.49.

- -- Single-Unit Condominiums. Insurance for mortgages covering single units in condominiums. Similar to the basic home mortgage insurance program.

  Legal Authority: Section 234(c) of the National Housing Act (12 U.S.C. 1715y(c)); 24 CFR Part 234, Subpart A.

- -- Home Equity Conversion Mortgages. This demonstration program provides for insurance of mortgages that permit elderly homeowners to receive monthly payments secured by the insured mortgage. Repayment is deferred until the sale of the home, death of the homeowner, or other events specified by regulation.

  Legal Authority: Section 255 of the National Housing Act, 12 U.S.C. 1715z-20; 24 CFR Part 206.

B. MULTIFAMILY PROPERTIES

-- Full Insurance. The most widely used "full insurance" multifamily authorities are sections 207 and 221(d)(4) of the NHA. These provisions offer essentially similar ways of encouraging the construction and substantial rehabilitation of multifamily housing. Housing (MIAS) reports that in FY 1992, HUD insured 398 projects (including hospitals), consisting of 64,309 units (or "beds" in medical facilities), for a total insurance amount of approximately $2.4 billion.

Legal Authority: Sections 207 and 221(d)(4) of the National Housing Act (12 U.S.C. 1713 and 17151(d)(4)); 24 CFR Parts 207 and 221.

Program Status: Active.

-- Coinsurance. The Department formerly operated coinsuring authorities for the construction or substantial rehabilitation of multifamily properties (24 CFR Part 251) and the refinancing of multifamily projects (24 CFR Part 255).

Legal Authority: Sections 221 and 223(f) of the National Housing Act (12 U.S.C. 1715l and 1715n(f)); 24 CFR Parts 251 and 255.

Program Status: Terminated or inactive. However, section 542 of the HCD Act of 1992 establishes two multifamily mortgage credit demonstrations that have coinsurance aspects.

C. HEALTH AND RELATED FACILITIES

HUD makes mortgage insurance available for nursing homes, intermediate care facilities, board and care homes, and assisted living facilities (section 232 of the NHA); public and proprietary hospitals (section 242 of the NHA); and group practice facilities (title XI of the NHA)).

Legal Authority: Sections 232 and 242 and Title XI of the National Housing Act (12 U.S.C. 1715w and 1715z-7; 24 CFR Parts 232, 242, and 244. The assisted living facilities authority was enacted in the HCD Act of 1992; regulations are needed.

Program Status: Active

D. MANUFACTURED HOMES, HOME IMPROVEMENT, AND HISTORIC PROPERTIES

HUD makes mortgage insurance available for the purchase or repair of manufactured homes, and for home improvements and the preservation of historic properties, under title I of the NHA. Because these loans involve a lesser degree of security, the loan terms and maximum mortgage amounts are less favorable than those available under section 203 of the NHA and related provisions in title II of the NHA.

Legal Authority: Title I of the NHA (12 U.S.C. 1702 *et seq.*); 24 CFR Part 201.

Program Status: Active.

Overall Program Status

The FY 1993 appropriations Act sets a $57 billion limit on additional obligations under the MMIF. For FY 1994, HUD has proposed to OMB a credit limitation of $55.6 billion for the MMIF and CHMIF and $15.9 billion for the GIF and SRIF.

E. LOAN GUARANTEES FOR INDIAN HOUSING (Unassigned)

The 1992 Act established a new loan guarantee program for Indian families and Indian housing authorities. The purpose of the program is to provide access to private financing to Indian families and IHAs who could not otherwise acquire financing because of the trust status of Indian land. Though modeled on the FHA program, this insuring authority is freestanding and has its own insurance fund.

Legal Authority: Section 184 of the HCD Act of 1992.

Program Status: HUD may enter into commitments to guarantee loans for any fiscal year only to the extent amounts have been provided in appropriations Acts. No amounts have yet been provided for this brand new program.

V. SECONDARY MORTGAGE MARKET

A. GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

The role of the Government National Mortgage Association ("GNMA") as a Federal corporation is to support the government's housing objectives by establishing secondary market facilities for residential mortgages, using private capital to the maximum extent feasible. Through its mortgage-backed securities program ("MBS program"), GNMA increases the overall supply of mortgage credit available for housing by providing a vehicle for channeling funds from the securities markets into the mortgage market.

Under the MBS program, private lenders ("issuers") are permitted to issue securities backed by groups, or "pools," of mortgages or other home loans insured or guaranteed by the Federal Housing Administration, the Veterans Administration or the Farmers Home Administration. The issuer retains responsibility for administering and servicing the pooled mortgages after sale of the securities and must make full and timely payments to the securities holders, whether or not such payments are made by the borrowers.

To protect the holders of the privately issued securities from the risk of financial losses and disruptions in payments resulting from borrower or issuer defaults, GNMA guarantees the timely payment of principal and interest on the securities and backs this guaranty by the pledge of the full faith and credit of the United States government. The GNMA guaranty assures securities holders of receiving timely payment of scheduled monthly principal and interest, as well as any prepayments and early recoveries of principal on the underlying mortgages.

Legal Authority: Section 306(g) of the National Housing Act, 12 U.S.C. 1721(g); 24 CFR Part 390.

Program Status: Guarantees outstanding: approximately $425 billion. The FY 1993 appropriations Act sets a $77.7 billion limit on new commitments to issue MBS guarantees. HUD has proposed to OMB for inclusion in the FY 1994 budget a credit limitation under the MBS program of $82.8 billion.

B. FEDERAL NATIONAL MORTGAGE CORPORATION

Until 1958, GNMA and FNMA were the same corporation. In 1968, Congress separated the corporation into two distinct corporations: GNMA, a wholly-owned government corporation within HUD; and FNMA, which is now a federally-chartered and stockholder-owned corporation. The purpose of both corporations is to establish secondary market facilities, financed by private capital to the maximum extent feasible.

FNMA supplies funds to the secondary mortgage market primarily by purchasing mortgage loans from local lenders. While both FNMA and GNMA are authorized to deal in federally-insured or guaranteed mortgages, FNMA may also deal in conventional mortgage loans.

FNMA has its own mortgage-backed securities program, similar to the GNMA program. However, these securities are issued directly by FNMA, are backed by conventional mortgages, and are guaranteed as to timely payment by FNMA.

Legal Authority: Section 304(b) of the National Housing Act, 12 U.S.C. 1719(b).

C. FEDERAL HOUSING ENTERPRISE OVERSIGHT

The two Government-Sponsored Enterprises ("GSEs") for housing, Federal National Mortgage Association ("FNMA" -- "Fannie Mae") and Federal Home Loan Mortgage Corporation ("FHLMC" -- "Freddie Mac") are to be regulated in part through a largely independent new Office of Federal Housing Enterprise Oversight ("OFHEO") within HUD, and in part directly by the Secretary. The role of the new office is to ensure that the enterprises are adequately capitalized and operate safely, and the office is granted a broad range of powers to that end. The powers include the right to make examinations, issue subpoenas, report to Congress, and limit enterprise executive compensation levels. HUD (which had more limited regulatory powers under the FNMA and FHLMC organic laws) would have enhanced powers relating to GSEs, noted below.

In performing its regulatory duties, the OFHEO is to use tests of the adequacy of the capital that (1) posit adverse financial markets and conditions, and (2) measure credit, interest rate, management and operations risks in relation to capital levels. In addition to regulatory powers, the OFHEO would exercise various levels of supervisory powers over the GSEs, including the appointment of conservators, if the level of capitalization falls below various minimums in certain circumstances. The OFHEO also has administrative and judicial enforcement powers, including authority to pursue civil money penalties in connection with the actions of the GSEs and the people managing the GSEs, in relation to its supervision of the GSEs.

HUD is empowered to regulate the GSEs directly in all respects other than those given to the OFHEO. This includes the specific authority to approve new mortgage finance programs; prohibit and remedy discrimination by the GSEs and mortgagees doing business with them; require reports; set and enforce goals for low- and moderate-income housing, for special affordable housing, and for housing for central cities, rural areas, and other underserved areas. The regulatory framework for the housing goals includes formal notice, hearing, judicial review and enforcement, and civil money penalty provisions.

Legal Authority: Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (title XIIIof the HCD Act of 1992), ___ U.S.C. ____; FNMA Charter Act (title III of the National Housing Act), 12 U.S.C. 1716, HUD; FHLMC Act (title III, Emergency Home Finance Act of 1970), 12 U.S.C. 1451.

Program Status: Section 1316 authorizes and specifically appropriates $1,500,000 to be collected from each enterprise for start-up expenses. There is no separate appropriation Act action, nor is any required for FY 1993.

VIII. FAIR HOUSING AND EQUAL OPPORTUNITY (Programs Administered by FHEO)

A. THE FAIR HOUSING ACT

Title VIII of the Civil Rights Act of 1968 Act prohibited discrimination in the sale, rental and financing of dwellings based on race, color, religion, sex or national origin.
Title VIII was amended in 1988 (effective March 12, 1989) by the Fair Housing Amendments Act, which:

-- expanded the coverage of the Fair Housing Act to prohibit discrimination based on handicap or on familial status (presence of children in the family);

-- established new administrative enforcement mechanisms with HUD attorneys bringing action before administrative law judges on behalf of victims of housing discrimination;

-- revised and expanded Justice Department jurisdiction to bring suit on behalf of victims in Federal district courts; and

-- provided for increased monetary penalties in cases where housing discrimination is found.

In connection with the Act's prohibitions on discrimination against the handicapped, design and construction requirements ("accessibility guidelines") have been established for certain new multifamily dwellings developed for first occupancy on or after March 13, 1991. These guidelines can be found at 24 CFR Ch. 1, Subch. A, App. II, p. 937 <u>et seq</u>. (<u>Fair Housing Accessibility Guidelines--Design Guidelines for Accessible/Adaptable Dwellings</u>).

Some residential housing is exempt from the coverage of the Fair Housing Act. The most notable exemption applies to certain housing for older persons. One exemption for housing in which at least one resident is 55 years of age or older requires the presence of significant facilities and services for older persons. Under section 919 of the HCD Act of 1992, HUD is required to promulgate regulations clarifying what is meant by "significant services and facilities" insofar as they are necessary for housing to be deemed "housing for older persons."

HUD has had a lead role in the enforcement of the Fair Housing Act since its adoption in 1968. The 1988 amendments, however, have greatly increased the Department's enforcement role. First, the newly protected classes have proven significant sources of new complaints. Second, HUD's expanded enforcement role has taken the Department beyond investigation and conciliation into the mandatory enforcement area for the first time. Complaints filed with HUD and not successfully conciliated are reviewed by HUD's Office of General Counsel, which determines whether or not reasonable cause exists to believe that a discriminatory housing practice has occurred. Where reasonable cause is found, the parties to the complaint are so notified by HUD's issuance of a "charge," and a hearing is scheduled before a HUD administrative law judge. Either party -- complainant or respondent -- may cause the HUD-scheduled administrative proceeding to be terminated by choosing instead to move the controversy to the Federal courts. Whenever a case has been so moved at the option of either party, the Department of Justice takes over HUD's role as counsel seeking resolution of the charge on behalf of aggrieved persons, and the matter proceeds as a civil action. Either form of action -- the ALJ proceeding or the civil action in Federal district court -- is subject to review in the U.S. court of appeals.

Legal Authority: Fair Housing Act, 42 U.S.C. 3601 et seq. 24 CFR Parts 100, 103, and 104.

Program Status: Fair Housing enforcement (excluding grant programs) is covered by Salaries and Expense Account appropriations.

B. FAIR HOUSING INITIATIVES PROGRAM

The Fair Housing Initiatives Program (FHIP) was established by the HCD Act of 1987. HUD makes grants to State and local governments or their agencies, to public or private nonprofit organizations, or to other entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices.

Grants may be approved for planned activities designed to secure enforcement of the rights granted by the Fair Housing Act or by State and local Fair Housing laws, for education and outreach activities designed to inform the public, for funding the establishment of, the operation of, or technical assistance to fair housing organizations, or for "testing" activity undertaken in aid of fair housing enforcement.

The authorizing statute also provides for a demonstration involving "testing" activity undertaken in aid of fair housing enforcement. HUD is responsible for establishing guidelines for testing activity funded under FHIP's "private enforcement initiative." While the Secretary's guidelines are not intended to control all privately organized testing activity, testing funded with FHIP assistance must be performed in accordance with the guidelines, which are intended to ensure that credible and objective evidence is developed.

Legal Authority: Section 561 of the HCD Act of 1987 (42 U.S.C. 3616 note).

Program Status: "Not less than $10.6 million" of the $15 million appropriated for FY 1993 for contracts, grants, and other assistance authorized under the Fair Housing Act and section 561 is appropriated for the FHIP program. This appropriation will remain available until September 30, 1994. The FY 1993 authorization is $21 million and the FY 1994 authorization is $26 million. HUD has proposed to OMB a budget request of $7.6 million for FY 1994.

C. FAIR HOUSING ASSISTANCE PROGRAM

Establishment of the Fair Housing Assistance Program (FHAP) is authorized by the Fair Housing Act, which permits the Secretary to use the services of responsible State and local agencies in the enforcement of fair housing laws, and to reimburse these agencies for services rendered to assist HUD in carrying out the Fair Housing Act.

Eligible grantees are State and local enforcement agencies administering statutes that HUD has found to be substantially equivalent to the Federal statute. The Fair Housing Act does not prescribe in any detail the methods to be employed by the Secretary in "reimbursing" local enforcement agencies.

Funding is divided into two broad categories, depending upon the experience of the local funded agency in working with HUD. Agencies, during their first two years of funding, are eligible for "capacity building" grants only. Agencies with more than two years of funding history under the FHAP program (known as "contributive agencies") can receive (a) support for case-processing costs, based on the prior year's case volume; (b) training funds; and (c) incentive funds requiring the applicant agency to describe specific projects on which the funds would be expended. (The amount of incentive funds provided is determined on a population-based formula.)

Legal Authority: Section 817 of the Civil Rights Act of 1968 (Fair Housing Act), 42 U.S.C. 3601, 3616; 24 CFR Part 111.

Program Status: The total FY 1993 appropriation for the Fair Housing Assistance (FHAP) and Fair Housing Initiatives (FHIP) programs is $15 million. Present plans call for no more than $4.4 million to be spent on the FHAP program. The appropriated amount remains available until September 30, 1994.

HUD has proposed to OMB a budget request of $6.2 million for FY 1994.

IX. LEAD-BASED PAINT POISONING PREVENTION (Administered by the Office of Lead-Based Paint Abatement and Poisoning Prevention in the Office of the Secretary)

This program is intended to address the problems of poisoning, particularly of children under 6 years of age, by flakes and dust of lead that was an ingredient of paint before being outlawed in 1978. The program has several components:

1. General demonstration and research authority related to lead-based paint removal.

2. Authority to perform research in cooperation with other Federal agencies to establish standards for such matters as performance of detection methods and cleanups; and to evaluate effectiveness of methods and strategies for such matters as hazard evaluation and reduction.

3. Establishment of procedures to eliminate lead-based paint hazards in insured and assisted housing, focused on public housing assisted with Modernization program funding; and under recently enacted laws, inspections, and in older housing stock mandatory abatement, of hazards, to the extent the level of appropriated funds permits.

4. Matching grants to State and local governments, to evaluate and abate lead-based paint hazards in private housing.

5. Lead-based paint hazard disclosure requirements, upon purchase and sale of most housing built before 1978.

<u>Legal Authority</u>: Lead-based Paint Poisoning Prevention Act, 42 U.S.C. 4821; Residential Lead-Based Paint Hazard Reduction Act of 1992 (title X of the HCD Act of 1992), ____ U.S.C. ____.

<u>Program Status</u>: The FY 1993 appropriation provides $100 million for abatement grants for low- and moderate-income owner-occupied and low-income privately-owned rental units (a more restricted universe than in the authorizing statute), and includes $2 million for technical assistance and evaluation. Also, $3 million of the foregoing amount is earmarked in the authorizing statute for State training and certification programs; and $5 million is earmarked in that statute for cooperative research with other Federal agencies.

The authorization for grants under section 1011 of the HCD Act of 1992 is $125 million for FY 1993 and $250 million for FY 1994. HUD has proposed to OMB a budget request of $25 million for FY 1994 for Lead-Based Paint Abatement (Private Housing), within the annual contributions account. HUD also proposed to transfer the office to PD&R.

X. REGULATORY PROGRAMS

A. INTERSTATE LAND SALES (Administered by the Office of Housing)

The Interstate Land Sales program protects consumers from fraud and abuse in the sale or lease of land. In 1968 Congress enacted the Interstate Land Sales Full Disclosure Act, which is patterned after the Securities Law of 1933 and requires land developers to register subdivisions of 100 or more non-exempt lots with HUD and to provide each purchaser with a disclosure document called a Property Report. The Property Report contains relevant information about the subdivision and must be delivered to each purchaser before the signing of the contract or agreement.

The Secretary may certify that particular State laws are equivalent to the Federal law in giving protection to purchasers and, in those cases, the State disclosure document may be used instead of the Federal Property Report.

In addition to the registration and disclosure requirements, the Act and regulations contain sales practices sections which prohibit fraudulent sales activities and which require that certain provisions be included in the contract for sale. The anti-fraud provisions apply to subdivisions containing 25 or more lots. The Act and regulations also contain a number of exemptions from the registration and disclosure requirements of the Act.

The Act gives HUD broad authority to investigate violations of the Act. When HUD finds that the developer's Property Report contains misstatements of omissions of material facts, HUD may bring an administrative action to suspend the developer's registration with the Department. HUD may also bring injunctive actions in Federal court for violations of the anti-fraud provisions or for nonregistration. In these suits, HUD has been successful in obtaining restitution for defrauded purchasers. Willful violations of the Act subject developers to criminal penalties of imprisonment and fines of up to $10,000 for each violation. In addition to any other remedy, HUD may seek civil money penalties for a material violation of the Act or regulations that is knowingly made. The maximum penalty is $1,000 for each violation with a $1,000,000 annual cap per violation. Finally, the statute provides that purchasers may bring civil actions against developers seeking damages, specific performance, or other relief.

The program office (OILSR) handles investigations of violations of the Act and consumer complaints, and processes registrations and amended registration statements, exemption advisory opinions, requests and other exemption filings. There are currently 3,452 active filings and 283 in process. In FY 1992 there have been $7 million in administrative agreements for rescission/refund offers for purchasers and $10 million court-ordered offers.

Legal Authority: Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701; 24 CFR 1700.

Program Status: The cost of the program is expected to be offset by fees from developers. For FY 1992, $365,000 was collected. Certain additional program expenses will come from the salary and expenses fund. HUD has proposed a budget request to OMB for FY 1994 of $600,000.

B. REAL ESTATE SETTLEMENT PROCEDURES ACT (Administered by the Office of Housing)

The Real Estate Settlement Procedures Act of 1974 ("RESPA") requires certain disclosures and contains certain restrictions regarding the settlement process for residential real estate involving "Federally related mortgage loans." The Act covers almost every residential real estate closing transaction in the United States, including refinancing and subordinate mortgages.

1. Disclosure Requirements.

RESPA is first a disclosure statute. It requires lenders to provide mortgage loan applicants with a Special Information Booklet explaining the settlement process and a Good Faith Estimate of the settlement costs. It also requires the use of the HUD-1 Settlement Statement to reflect the charges imposed upon the parties at settlement. In addition, RESPA requires certain disclosures involving mortgage servicing and escrow account statements. It also provides certain procedures for resolving borrower questions concerning the servicing of mortgage loans.

2. Anti-kickback provisions.

RESPA contains a civil and criminal provision which prohibits kickbacks for the referral of business incident to, or part of, a settlement service (including the origination of federally related mortgage loans), as well as the splitting of a fee for a settlement service other than for actual services. There are exemptions to the prohibition against kickbacks that include "controlled business arrangements" (affiliated companies that meet certain requirements). HUD published a final rule on November 2, 1992 concerning RESPA that among other things provides guidance to the controlled business arrangement exception. RESPA also prohibits a seller from requiring a buyer to use a particular title company and limits the size of lender-held escrow accounts for taxes, insurance, and other charges.

Legal Authority: The Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.); 24 CFR Part 3500.

Program Status: HUD is working on a draft rule involving the calculation of escrow account reserve amounts. A revision to the November 2, 1992 RESPA rule is now in clearance to implement provisions of the HCD Act of 1992. HUD is currently conducting numerous investigations of RESPA violations throughout the country and has entered into several settlements during 1992. No funding needed; activities funded through Salaries and Expenses.

C. MANUFACTURED HOME SAFETY STANDARDS (Administered by the Office of Housing)

The Manufactured Housing program is national program established to protect the health and safety of owners of manufactured (mobile) homes. Under the program HUD issues, monitors, and enforces Federal manufactured home construction and safety standards to reduce the number of personal injuries and deaths and the amount of insurance costs and property damage resulting from manufactured home accidents and to improve the quality and durability of manufactured homes. The standards preempt State and local laws which are not identical to the Federal standards. The standards may be enforced by HUD directly or by various States which have established State Administrative Agencies (SAAs) in order to participate in the program. HUD has the authority to inspect factories and obtain records needed to enforce the standards. If a manufactured home does not conform to Federal standards, the manufacturer may be required to notify the consumer. If the home contains a defect which presents an unreasonable risk of injury or death, the manufacturer may be required to correct the defect.

Under the program, State or third-party agencies are established to check and approve designs and calculations used in the construction of manufactured homes. Other State or third-party agencies certify and inspect each plan to assure construction in compliance with the standards and with approved designs. HUD's monitoring contractor acts as a repository for design packages submitted to HUD under the regulations and reviews a percentage of the approved designs to assure compliance. HUD's contractor also monitors the State or third-party inspection agencies to assure adequate performance.

The program also provides a system for handling consumer complaints relating to non-conformance in the construction of homes. Thirty-six States have been approved by HUD to participate in the program as SAAs. Each of these States agencies handles its own consumer complaints, conducts, inspections, makes enforcement determinations, and conducts hearings. For the remaining non-SAA States, for non-compliances that amount to a serious defect or imminent safety hazard, or for non-compliance occurring in homes manufactured in more than one State, HUD conducts investigations, holds hearings and issues orders requiring remedial action or notification of homeowners.

The Act gives HUD broad investigatory authority to conduct inspections, issue subpoenas and issue orders. HUD may bring administrative actions against manufacturers or inspection agencies for violations of the Act or regulations. The Act also provides for injunctive actions in Federal court and civil money penalties and criminal sanctions.

Legal Authority: The National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 *et seq.*; 24 CFR Part 3280 and Part 3282.

Program Status: The program is funded in part by collection of a $24 inspection fee paid to the Treasury for each floor unit produced. HUD estimates that $6.7 million in fees will be collected in FY 1992. Certain additional program expenses will come from the Salary and Expenses account. HUD has proposed to OMB a budget request for FY 1993 of $6 million and $6.7 million for FY 1994.

Within the last year, HUD has carried on a number of major investigations, filed cases in Federal court for civil penalties and injunctive relief and entered into several settlements with manufacturers. These actions have resulted in stopping violations of the Act by manufacturers and in manufacturers notifying consumers of defects in their homes and correcting the consumers' homes.

XI. COMPREHENSIVE HOUSING AFFORDABILITY STRATEGY (The Office of Community Planning and Development is responsible for issuing the regulations)

The Comprehensive Housing Affordability Strategy (CHAS) is a comprehensive planning document that identifies a jurisdiction's overall needs for affordable and supportive housing, including housing for homeless persons, and outlines the jurisdiction's strategy to address those needs. It is designed to help coordinate the use of housing programs.

A CHAS, covering a five-year period, with annual updates, must be submitted to HUD by States and larger cities and counties. (Smaller local governments applying for funds under a covered program may do an abbreviated CHAS that is tailored to the specific program for which an application is submitted.) Each application for assistance under a covered program must contain a certification from the jurisdiction in which the assisted activities are to be located that the activities are consistent with the jurisdiction's current approved CHAS[17].

A CHAS requires the jurisdiction to examine the need for homeless assistance in its jurisdiction in relation to existing resources, and to devise an strategy that will supplement and expand upon existing programs. It includes:

-- A description of the estimated housing needs for the ensuing five years, and the need for assistance for very low-income, low-income, and moderate-income families;

-- A description of the nature and extent of homelessness within the jurisdiction, and of the jurisdiction's strategy for addressing the needs of various categories of the homeless; and

-- A description of the means of coordination among the State and local governments to implement the housing strategies.

<u>Legal Authority</u>: Sections 105 and 106 of NAHA (42 U.S.C. 12705 and 12706); 24 CFR 91. See, also, miscellaneous provisions in programs requiring compliance with CHAS requirements.

<u>Program Status</u>: There is no separate funding authority in connection with the review and approval of a CHAS. These

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[17]Indian tribes are not considered jurisdictions and are not required to prepare a CHAS.

activities are staff functions paid for by the Salaries and Expenses account.