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October 3, 2005

The Honorable Richard C. Shelby
Chairman
The Honorable Paul S. Sarbanes
Ranking Minority Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Michael G. Oxley
Chairman
The Honorable Barney Frank
Ranking Minority Member
Committee on Financial Services
House of Representatives

Subject: *Department of Housing and Urban Development: Revisions to the Public Housing Operating Fund Program*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Housing and Urban Development (HUD), entitled "Revisions to the Public Housing Operating Fund Program" (RIN: 2577-AC51). We received the rule on September 19, 2005. It was published in the Federal Register as a final rule on September 19, 2005. 70 Fed. Reg. 54984.

The final rule amends the regulations of the Public Housing Operating Fund Program to provide a new formula for distributing operating subsidy to public housing agencies and to establish requirements for the agencies to convert to asset management.

Enclosed is our assessment of the HUD's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that HUD complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO

evaluation work relating to the subject matter of the rule is Richard Hillman, Managing Director, Financial Markets and Community Investment. Mr. Hillman can be reached at (202) 512-8678.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Camille E. Acevedo
Associate General Counsel for
Legislation and Regulations
Department of Housing and
Urban Development

ENCLOSURE

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
ENTITLED
"REVISIONS TO THE PUBLIC HOUSING OPERATING FUND PROGRAM"
(RIN: 2577-AC51)

(i) Cost-benefit analysis

HUD's regulatory impact analysis shows that the cost of the final rule, assuming appropriations for the full formula amount when fully implemented, is approximately \$311 million in 2003 dollars in increased operating subsidy eligibility. The public housing program funding eligibility for operating subsidies would increase by approximately \$1.67 billion over 5 years.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

HUD has certified that the final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The final rule does not contain either an intergovernmental or a private sector mandate, as defined in title II, of more than \$100 million in any one year.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

The final rule was issued using negotiated rulemaking (5 U.S.C. 561) and the notice and comment procedures found at 5 U.S.C. 553. On April 14, 2005, HUD published a Notice of Proposed Rulemaking in the Federal Register. 70 Fed. Reg. 19858. HUD received 573 comments on the proposed rule and the significant comments are discussed in the preamble to the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains a revised information collection that is subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. OMB has approved the collection and assigned OMB Control No. 2577-0029.

Statutory authorization for the rule

The final rule is promulgated under the authority found at 42 U.S.C. 1437g and 3535(d).

Executive Order No. 12866

The final rule was reviewed by OMB and found to be an “economically significant” regulatory action under the order.

Executive Order No. 13132 (Federalism)

HUD has reviewed the final rule and found that it does not have federalism implications.