



Office of the General Counsel

B-276159

February 21, 1997

The Honorable Alfonse D'Amato
Chairman
The Honorable Paul S. Sarbanes
Ranking Minority Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable James A. Leach
Chairman
The Honorable Henry B. Gonzalez
Ranking Minority Member
Committee on Banking and Financial Services
House of Representatives

Subject: Department of Housing and Urban Development: Sale of HUD-Held
Single Family Mortgages

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 "Sale of HUD-Held Single Family Mortgages" (RIN: 2502-AG42). We received the rule on February 6, 1997. It was published in the Federal Register as a final rule on January 24, 1997. 62 Fed. Reg. 3766.

Enclosed is our assessment of 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 the Department complied with the applicable requirements. We note that the planned effective date of March 25, 1997, is less than 60 days from the date the rule was submitted to the Congress and GAO.

HUD established its policy for the sale of single family mortgages through an interim rule published on August 31, 1995, 60 Fed. Reg. 45,331. According to the preamble to the interim rule, the sales policy came about as a result of internal audits by HUD's Inspector General (IG). The IG found significant deficiencies with

HUD's management of its single-family mortgage portfolio and recommended that HUD implement the sales program.

This final rule essentially adopts the interim rule with certain modifications and clarifications as the final rule. The purpose of the sales, according to the preamble, is to decrease the agency's inventory of assigned mortgage loans and to reduce further losses to the Federal Housing Administration insurance funds. As a result of three sales conducted, HUD sold 46,208 loans with an aggregate unpaid principal balance in excess of \$2 billion resulting in savings to the federal government asserted to be in excess of \$312 million. The final rule will result in a program of regular sales of *all* HUD-owned single family mortgage loans.

If you have any questions about this report, please contact Alan Zuckerman, Assistant General Counsel, at (202) 512-4586. The official responsible for GAO evaluation work relating to the Department of Housing and Urban Development is Robert Procaccini, Assistant Director, Resources, Community and Economic Development Division. Mr. Procaccini can be reached at (202) 512-6776.

Robert P. Murphy
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Enclosure

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Department of Housing and
Urban Development

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
"SALE OF HUD-HELD SINGLE FAMILY MORTGAGES"
(RIN: 2502-AG42)

(i) Cost-benefit analysis

HUD prepared an "Economic Analysis" of the assumed budgetary savings that will be realized by conducting auction sales of all HUD-held single family mortgages, based primarily on its experience with two sales conducted under its interim rules. These sales consist of a "package" of performing and non-performing mortgages for which the purchasers are required to provide the same forbearance and rights of redemption that the agency was obligated to provide under various programs if it held the mortgages. According to the agency, the Office of Management and Budget estimated budgetary savings resulting from these sales, net of any selling costs, exceed the present value return that HUD might expect if it continued to hold the mortgages by \$148.3 million. (The purchase prices for the packages equal a percentage of the unpaid principal balances at the time of the sale.) Since the prices bid are based in part on the bidder's valuation of the risks involved, the budgetary savings (if any) could vary substantially from sale to sale.

There are no calculations included in the analysis of the budgetary savings.

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

The Secretary has certified that both the interim and the final rule will not have a significant economic impact on a substantial number of small entities pursuant to 5 U.S.C. § 605(b), because the regulations will not affect the ability of small entities relative to larger ones, to bid for and acquire HUD-held mortgages. No further actions under the Regulatory Flexibility Act are required.

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

There are no federal mandates imposed on state, local or tribal governments or on the private sector by the rule.

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

The agency reports that the policies and procedures established by the rule relate only to the sale of HUD assets and thus are not subject to Executive Order 12612, Federalism. In addition, the agency notes that as the rule does not significantly change the rights of mortgagors or their families, it does not have potential for significant impact on family formation, maintenance and general well being and is therefore not subject to further review under Executive Order 12606, The Family.

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

The agency complied with the notice and comment provisions of the Administrative Procedures Act. It published its interim rule on August 31, 1995, 60 Fed. Reg. 45,331, with an effective date of October 2, 1995. Public comments were invited, with a due date of October 30, 1995. No comments were received in response to the notice.

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

There are no information collection requirements contained in the rule.

Statutory authorization for the rule

12 U.S.C. §§ 1709, 1715(b), 42 U.S.C. §§ 1441, 1441a, 3535(d)

Executive Order No. 12866

Our review indicates that the HUD adhered to the requirements of Executive Order 12866. The rule was reviewed by OMB and approved prior to publication.