
BY THE U.S. GENERAL ACCOUNTING OFFICE

**Report To The Honorable William L. Armstrong
United States Senate**

HUD's Progress In Implementing The 1981 Housing Amendments

The Omnibus Budget Reconciliation Act of 1981 contains a number of provisions affecting federally assisted housing programs, such as designing modest housing, increasing tenant rent contributions in public housing and section 8 units, and denying Federal housing assistance to illegal aliens. This report discusses HUD's actions to carry out these provisions and the target dates for final implementation of each provision.



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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

COMMUNITY AND ECONOMIC
DEVELOPMENT DIVISION

B-208368

The Honorable William L. Armstrong
United States Senate

Dear Senator Armstrong: -

This report transmits in final form the information provided in our June 3, 1982, briefing on the Department of Housing and Urban Development's (HUD's) implementation of 13 selected provisions of the housing amendments in the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), enacted August 13, 1981. As suggested in your June 7, 1982, letter, we will be sending copies of this report to the Director, Office of Management and Budget; the Secretary of HUD; the appropriate House and Senate Committees; and to other interested parties.

The information provided results from our inquiry into HUD's implementation of those provisions which you discussed in your March 17, 1982, letter (app. III) and those which were subsequently added as discussed with your office. Appendix I outlines the status of the selected provisions as of May 31, 1982, while appendix II contains more detail on HUD's progress toward final implementation of each provision.

Because of time constraints and because only a few regulations or other implementing records were available, we relied heavily on interviews with knowledgeable HUD officials. Although we made our inquiries primarily at HUD headquarters in Washington, D.C., we also interviewed HUD field office representatives in Los Angeles, Sacramento, San Francisco, Chicago, Boston, Grand Rapids, Minneapolis, and Milwaukee. We discussed the accuracy of this information with responsible HUD officials whose comments have been considered in finalizing the report. The report provides information on a number of provisions, including the need to (1) design modest housing, (2) increase tenant contributions to the rent for public housing and section 8 units, and (3) deny federally assisted housing to illegal aliens residing in the United States.

The conference report accompanying the 1981 amendments directed the Secretary of HUD to assure that all newly constructed section 8 projects shall be modest in design. While HUD has taken some action to implement the congressional directive, we advised HUD in March 1982 that additional action could be taken to limit the cost of housing being built under rent subsidy programs. In

its April 1982 response, HUD agreed with our observations on the need for cost containment in public housing but disagreed with our views on reducing the size of section 8 units.

One housing provision directed the Secretary to charge higher rents to tenants occupying public housing and section 8 units. Although HUD program officials hoped to have the higher rents effective in January 1982, the necessary rules were not published in the Federal Register until May 1982. These higher rents still did not become effective at that time because the House Banking, Finance and Urban Affairs Committee passed resolutions to prohibit HUD from implementing the plans for an additional 90 days.

Another provision prohibits Federal housing assistance to illegal aliens residing in the United States. A proposed rule, drafted by HUD to implement this legislation, was published on May 3, 1982, in the Federal Register. A HUD official estimated that receiving and analyzing public comment, publishing the final rule, and completing the appropriate guidance for HUD field offices would take between 3 and 5 months.

We appreciate your interest in the results of our review. We will be pleased to provide further assistance should you desire any additional information.

Sincerely yours,



Henry Eschwege
Director

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ABBREVIATIONS

GAO	General Accounting Office
HUD	Department of Housing and Urban Development
OMB	Office of Management and Budget



STATUS (MAY 1982) OF HUD'S RESPONSE TO SELECTED PROVISIONS OF THEHOUSING AMENDMENTS ENACTED AUGUST 13, 1981HUD's Implementing Actions

<u>Provision of the law</u>	<u>Section of 1981 act</u>	<u>Type of action</u>	<u>Status</u>	<u>Final implementation date: actual or estimated</u>
Designing modest housing	324	Administrative procedure	Field notices were issued in Nov. 1981 and Mar. 1982 on modest housing.	HUD field offices have been implementing the revised policies since issuance.
Increasing tenants' contributions	322	Regulation	Interim rules were published in May 1982 for section 8 and public housing. Changes to the HUD handbooks and forms are in process.	A House committee delayed HUD from implementing the interim rules for 90 days.
Limiting the Secretary's Discretionary Fund	321	Regulation	The interim rule will be published in June 1982.	According to an agency official, HUD is already complying with this provision.
Restricting assistance to certain classes of aliens	329	Regulation	A proposed rule was published in May 1982. Changes to forms used by prospective tenants, and to the HUD handbooks, are in process.	The final rule should be effective later this year. HUD is drafting forms and handbooks to implement the changes concurrently with the effective date of the final rule.
Eliminating preference for Tandem-financed, partially assisted projects	325	Regulation	A proposed rule cleared HUD in Mar. 1982 and will go to OMB a/ early in June 1982.	Although HUD does not have a rule to implement the law, HUD officials explained that the intent of the provision is being met.
Providing payments for unoccupied units	(b)	Report	A report to the Congress is being prepared covering the results of a HUD study. An interim report was sent to the Congress in Apr. 1982.	The final report, which was due in June 1982, is under internal review at HUD. An agency official said that HUD expects to transmit the report to the Congress in August 1982.

a/Office of Management and Budget.

b/The House and Senate Conferees required a report on this issue.

 HUD's Implementing Actions

<u>Provision of the law</u>	<u>Section of 1981 act</u>	<u>Type of action</u>	<u>Status</u>	<u>Final implementation date: actual or estimated</u>
Assuring the availability of section 8 units for occupancy by eligible families	325	Administrative procedure	HUD's handbook on occupancy was revised to specify the limit on admitting ineligible tenants. The revised handbook was issued in Nov. 1981.	HUD field personnel are becoming familiar with the revised guidance. Assistance contracts will be amended to incorporate this change.
Limiting participation by families with incomes between 50 and 80 percent of median area income	323	Regulation	A draft proposed rule has been at OMB since Mar. 1982.	Assuming the proposed rule is published in June 1982, HUD estimates that field implementation will occur about 6 to 8 months later.
Limiting eligibility to lower income families	322	" "	" "	" "
Defining tenants' income	322	" "	" "	" "
Changing the basis for rent increases in section 8 projects	324	Regulation	A proposed rule has been drafted and is in internal review at HUD. Changes to the HUD handbook will not be started until HUD has firmed up the rule.	HUD expects to have a rule effective in Oct. 1982, when the initial contracts signed under the provision will be subject to rent increases.
Determining the plans for early withdrawal of section 8 owners	326	Administrative procedure	Studies are in process to determine (1) the extent of early withdrawals of owners and (2) any methods available to recapture front-end investment subsidies from these owners.	HUD expects to send the results of both studies to the Congress in Aug. 1982.

 HUD's Implementing Actions

<u>Provision of the law</u>	<u>Section of 1981 act</u>	<u>Type of action</u>	<u>Status</u>	<u>Final implementation date: actual or estimated</u>
Prohibiting financial profit by Government officials	326	Regulation	An interim rule has been drafted and is in internal review at HUD.	HUD already has the prohibition in effect through a clause in the section 8 housing assistance contracts. HUD would not estimate the target date for publishing the interim rule; in part because HUD must coordinate with the Department of Justice before publishing the rule.

SUMMARIES OF SELECTED PROVISIONS
OF THE HOUSING AMENDMENTS OF 1981 AND
HUD'S RESPONSE THROUGH MAY 1982

Designing Modest Housing
(Section 324)

PROVISION OF 1981 AMENDMENTS

Newly constructed housing in the section 8 program must be modestly designed.

BACKGROUND

We concluded that newly constructed housing was not modest: units were larger than necessary and projects contained costly amenities. ^{1/} We also reported that efficiencies are more cost effective than 1-bedroom units for the single elderly. We recommended that HUD's Secretary explicitly define "modest housing" and house the single elderly in efficiencies.

S. 1074 proposed that HUD exclude unnecessary amenities. As proposed by the Senate, S. 1197 required HUD to limit unit sizes to no more than 10 percent above the Federal minimum property standards, reduce the types and numbers of amenities, and assure that not less than 25 percent of the units for the elderly or handicapped are efficiencies.

The conference report, accompanying the 1981 amendments, directs the Secretary to (1) preclude unnecessary amenities, (2) review the extent to which room sizes can be reduced to the minimum property standards, and (3) encourage an appropriate use of efficiencies.

HUD ACTIONS

HUD directed its field offices to

- implement several cost containment and modest housing measures for the section 8 program (Nov. 1981),
- exclude unnecessary amenities when computing fair market rents for multifamily housing (Dec. 1981), and
- give cost containment and modest design features a maximum weight of 30 out of 100 points when selecting elderly and handicapped housing projects in fiscal year 1982 (Mar. 1982).

^{1/}"How to House More People at Lower Costs Under the Section 8 New Construction Program" (CED-81-54, Mar. 6, 1981).

TARGET DATES

HUD told us that it would continue to press for modest housing and cost containment in the Section 8 New Construction Program. As discussed below, HUD also plans to apply additional modest housing requirements to its public housing program.

DISCUSSION

Officials in four HUD field offices said that some of their projects must be reviewed to comply with the November 1981 directive. These offices also explained that the directive was sent to project sponsors, developers, mortgage companies, and others.

HUD's November 1981 directive, while a step in the right direction, still permits the construction of units substantially above the minimum property standards. We told HUD in March 1982 that the room size ceilings appear to be of limited value in the Department's efforts to reduce production costs. For example, had the directive's maximum square footages for 2- and 3-bedroom units been in effect at the time of our 1981 study of projects in California, Ohio, Pennsylvania, and Washington, D.C., very few of the units would have been affected.

In our March 1982 letter, we also told HUD that its maximum square footage for a 1-bedroom unit for the elderly was too large and limitations appeared to be needed in the design of public housing.

In its April 30, 1982, response, HUD agreed with our observations on public housing but disagreed with our views on downsizing of section 8 units.

Increasing Tenants' Contributions
(Section 322)

PROVISION OF 1981 AMENDMENTS

This provision made the method of determining tenant rent contributions uniform between the public housing and section 8 programs.

The provision also requires that families pay whichever of the following amounts is highest:

- 30 percent of monthly adjusted gross income,
- 10 percent of monthly gross income, or
- the designated shelter payment received by welfare tenants.

BACKGROUND

S. 1074 stated that tenants were sometimes paid to live in federally assisted housing because of allowances for high utility costs. The proposal sought to establish a minimum rent contribution for section 8 recipients.

As proposed by the Senate, S. 1197 rejected the proposed minimum rent provision but required the 30/10 or designated shelter payment discussed above.

HUD ACTIONS

In May 1982 the interim rules were published in the Federal Register.

HUD is revising certain handbooks and forms to implement the interim rule.

TARGET DATES

A House committee delayed HUD from implementing the interim rules for 90 days.

DISCUSSION

HUD program officials decided that all the provisions of sections 322 and 323 could be released in December 1981 as an interim rule, effective January 1982. However, HUD's Office of General Counsel decided to separate section 322's provision on higher contributions from all the other provisions. General Counsel

then rewrote the interim rules on higher tenant contributions. Program officials calculated Federal subsidies for part of fiscal year 1982 on the basis of higher tenant contributions beginning in January 1982, whereas the effective date of the interim rules will probably be September 1982--some 8 months later.

The section of the provision directing welfare tenants to contribute the designated shelter payment is applicable in eight States and Puerto Rico; welfare families in the other States do not receive a designated shelter payment.

Although the interim rules were published in May 1982, the House Committee on Banking, Finance and Urban Affairs passed two "resolutions of disapproval" to prohibit HUD from implementing the plans for an additional 90 days.

Limiting the Secretary's Discretionary Fund
(Section 321)

PROVISION OF 1981 AMENDMENTS

This provision limits the fund to 15 percent of housing assistance and specifies that the fund can only be used for (1) unforeseeable housing needs, (2) handicapped or minority enterprise, (3) assisted housing provided as a result of litigation, (4) small research and demonstration projects, (5) lower income housing needs described in in housing assistance plans, and (6) innovative or alternative programs.

BACKGROUND

S.1074 proposed eliminating the fund because of the wide latitude with which these funds could be used.

HUD ACTION

An interim rule was sent to the Federal Register on May 27, 1982.

TARGET DATES

A HUD official told us that the Secretary has implemented the new limits on the amount and uses of the fund.

DISCUSSION

Although an interim rule was drafted in September 1981, HUD officials said disagreement within HUD occurred over the funding allocation provisions of this rule. The Secretary's Discretionary Fund was not debated since it simply repeated the statutory language. There were many nonconcurrences by the divisions and offices within housing which had to be resolved.

The discretionary fund has been estimated at \$98 million for fiscal year 1982. A HUD official said that, as of April 1982, approximately \$20 million has been allocated for projects under the discretionary fund. The Office of Housing Operations and Field Monitoring accounts for the expenditures through an internal report, which is updated as each item is approved for funding.

RESTRICTING ASSISTANCE TO CERTAIN CLASSES OF ALIENS(SECTION 329)PROVISION OF 1981 AMENDMENTS

This provision limits financial assistance in federally assisted housing programs to certain classes of aliens lawfully residing in the United States.

BACKGROUND

Our inquiry into HUD's policies and procedures to exclude illegal aliens from receiving Federal housing subsidies suggested that illegal aliens were residing in selected federally supported projects. HUD told us in April 1980 that legislation authorizing its programs did not specifically address the issue of illegal aliens.

S. 1074 proposed that illegal aliens be prohibited from receiving Federal housing rental assistance. S. 1197 was essentially the same as S. 1074.

HUD ACTIONS

The proposed rule was published in May 1982.

HUD is preparing the necessary handbook changes and revising tenant certification/recertification forms.

TARGET DATES

One HUD official estimated that receiving and analyzing public comment, publishing the final rule, and preparing the implementing guidance for field offices' use will take 3 to 5 months.

DISCUSSION

According to a HUD official, the Department of Agriculture's alien eligibility criteria was modified to fit HUD's program needs.

HUD's "best guess" is that 500,000 units of subsidized housing are occupied by ineligible aliens. It estimates the annual subsidy for these units at \$900 million.

Eliminating Preference for Tandem-Financed,
Partially Assisted Projects
(Section 325)

PROVISION OF 1981 AMENDMENTS

This provision eliminates a preference to partially assisted projects with Tandem financing.

BACKGROUND

HUD encouraged an economic mix of low-income families with middle and upper-income families through the funding of partial section 8 projects. However, the use of Tandem financing provided deep subsidies for the many nonpoor families in these projects. We characterized the concept as a large rent reduction for middle-income renters. 1/

S. 1074 proposed to prohibit priority funding to partially assisted projects. The Senate report accompanying S. 1197 was essentially the same as S. 1074.

HUD ACTIONS

HUD said that it is including this provision in its consolidation of rules 880 and 881. The proposed rule cleared HUD in March 1982 and will go to the Office of Management and Budget (OMB) early in June 1982.

TARGET DATES

HUD did not provide us with a target date.

DISCUSSION

HUD explained that it was implementing the intent of this provision even though a rule has not been published.

The six area offices that we contacted said that they had not given a preference in the selection process to any projects planned for Tandem financing. Two offices told us that partially assisted projects, previously selected, had received Tandem financing in 1982.

HUD is considering using 11(b) tax-exempt financing with partial projects. We told HUD that such a combination could result in

1/"Evaluation of Alternatives for Financing Low and Moderate Income Rental Housing (PAD-80-13, Sept. 30, 1980).

subsidies which are much more costly than any other financing method yet used. 1/

1/Letter report on Section 11(b) Financing Used With Partially Assisted Section 8 Projects (CED-Feb. 17, 1982).

Providing Payments For Unoccupied Units
(Section 324)

PROVISION OF 1981 AMENDMENTS

The House and Senate conferees required a report to the Congress by January 1, 1982, on HUD's payments for unoccupied section 8 units. The Congress directed HUD to report on (1) the extent to which such payments have been made, (2) the cost to the Federal Government, and (3) the impact on owners and investors of limiting such payments in the future.

BACKGROUND

Current law permits Federal subsidies for vacant units at 80 percent of the contract rent for 60 days, along with the vacant unit's portion of the project's debt service for an additional 12 months. Concern was expressed in S. 1074 that this policy was too generous.

S. 1074 and the report accompanying S. 1197 would have prohibited subsidy payments for vacant section 8 units beyond 30 days.

HUD ACTION

HUD transmitted an interim report to the Congress in April 1982.

A final report, which was due to the Congress on June 1, 1982, has been drafted and is being reviewed within HUD.

TARGET DATE

HUD expects to transmit the final report to the Congress in August 1982.

DISCUSSION

The interim report findings are based upon a 15-percent sample of the section 8 inventory within the Cleveland Area Office's jurisdiction. The final report will be based upon sample data from Cleveland and three additional area offices (Baltimore, Seattle, and Hartford). One HUD official explained that the data necessary for such an analysis was not available in HUD's computer system and that a full-scale study would require about 2 years. We did not examine HUD's report methodology because of the short time frame for our review.

HUD concluded, in the interim report, that withdrawing or limiting vacancy claims under the Section 8 New Construction or Substantial Rehabilitation Program would result in a substantial risk of default during the initial rent-up period, with a lesser risk during continued occupancy. An official in HUD's Office of State Agency and Bond Financed Programs noted that the present vacancy payment provision is attractive to the financial market. For example,

some projects have a unique need for vacancy payments longer than 30 days because of severe weather conditions during the initial rent-up period.

A HUD official told us that the final report will show that, for the New Construction and Substantial Rehabilitation Program, 28 percent of the claims are for 31 to 60 days and 72 percent are for 30 days or less. The final report will also show an estimate for vacancy payments of \$53.5 million for all programs, with \$50.9 million, or 95 percent, for the New Construction and Substantial Rehabilitation Program.

Assuring the Availability of Units
for Occupancy by Eligible Families
(Section 325)

PROVISION OF 1981 AMENDMENTS

This provision states that owners of section 8 newly constructed or substantially rehabilitated housing shall make available for occupancy by eligible families the number of units for which assistance is committed under the contract.

BACKGROUND

In April 1981 we reported that occupancy by ineligible households was a significant and costly problem. ^{1/} We concluded, in this report, that the program rules were too lenient and that some owners ignore them. In its response to our report, HUD said that it was considering changing the section 8 regulations to more explicitly state the owner's obligation to rent to section 8-eligible tenants. To date, HUD has not decided to change the regulations.

S. 1074 would have prohibited renting any section 8 unit to individuals with incomes above the eligibility standards.

S. 1197 would have prohibited renting vacant units in a section 8 project to ineligible tenants unless the number of occupant-eligible families equals or exceeds the number to be available during the initial rent-up period.

HUD ACTION

This provision was handled by a revision in November 1981 to the handbook on "Occupancy Requirements of Subsidized Multifamily Housing Programs."

TARGET DATES

HUD field staff are beginning to implement the change.

DISCUSSION

HUD officials told us that this provision did not require a regulation and was adequately handled by the handbook revision.

^{1/}"Lenient Rules Abet the Occupancy of Low Income Housing by Ineligible Tenants" (CED-81-74, Apr. 27, 1981).

This handbook revision states that:

- An owner may not lease any section 8 unit to any applicant above the income eligibility limit unless he or she makes a "good faith effort" to attract income-eligible applicants and finds they are not available.
- Before admitting an over-income applicant, the owner must certify in writing that
 - (1) he or she made all assisted units committed under the contract available for occupancy by eligible families,
 - (2) he or she took all reasonable steps to attract income-eligible applicants, and
 - (3) no income-eligible applicants were available when the over-income applicant was selected for admission.
- An owner may not lease more than 10 percent of the section 8 units to over-income tenants without HUD approval, except in older projects where the contract allows up to 20 percent.

We asked the following four HUD area offices about field implementation of this handbook change: Los Angeles, Milwaukee, Minneapolis, and Chicago. HUD field officials said that they are implementing the revised handbook procedures and that project owners have complied with the good faith criterion for attracting income-eligible applicants.

Limiting Occupancy by Families
With Incomes Between 50 and 80
Percent of Median Area Income
(Section 323)

PROVISION OF 1981 AMENDMENTS

This provision states that of public housing or section 8 units available for occupancy before October 1, 1981, and leased on or after that date, only 10 percent may be leased to individuals with incomes between 50 and 80 percent of the median area income.

Of the additional or new units that become available after October 1, 1981, no more than 5 percent may be leased to individuals with incomes between 50 and 80 percent of median area income.

BACKGROUND

Both S. 1074 and S. 1197 would have changed the section 8 eligibility level from 80 percent to 50 percent of median income to target individuals most in need.

HUD ACTIONS

By December 1981 program officials had developed an interim rule incorporating the provisions of sections 322 and 323 of the 1981 amendments.

The Office of General Counsel retained the portion of the regulation on increasing the tenant's contributions as an interim rule. The remainder of the regulation, including the limits on occupancy section, was developed into a proposed rule. The proposed rule was sent to OMB on March 24, 1982.

TARGET DATES

A HUD official was unable to estimate when the proposed rule would be published. While we were advised by HUD and OMB that disagreement about an issue must be resolved before the rule is cleared by OMB, neither agency would identify the issue. An OMB official told us that the issue in question had substantial budgetary impact but declined to give further information on it.

One HUD official estimated that field implementation could begin 6 to 8 months after the proposed rule was published.

DISCUSSION

Procedures, in the form of handbook changes, are expected to be ready for the HUD field offices at about the time the final rule becomes effective.

A HUD official said that the draft rule did not contain the 10-percent limitation on units available before October 1, 1981. The rationale for this exclusion is that it will prevent disruption of established housing patterns and that

--currently, only 11 percent of section 8 and 10 percent of public housing households are above the 50-percent median,

--rent increases which will occur under another provision are expected to cause many families above the 50-percent median to move out of assisted housing into the private market, and

--HUD monitoring procedures will be established to assure that the 10-percent limit is not exceeded.

Regarding the 5-percent limit on new or additional units, HUD expects to give priority to certain types of projects where the mix of tenant incomes up to 80 percent is appropriate, such as bond-financed section 8 projects and projects that must be rehabilitated to avoid displacing tenants.

Limiting Eligibility to Lower Income Families
(Section 322)

PROVISION OF 1981 AMENDMENTS

This provision limits eligibility for public housing and section 8 programs to lower income families, defined as those families with incomes not exceeding 80 percent of the median for the area, with adjustments for family size. The Secretary is given discretionary authority to establish higher or lower ceilings where justified by higher prevailing construction costs or unusually high or low family incomes.

BACKGROUND

Both S. 1074 and S. 1197 would have changed section 8 eligibility level from 80 percent to 50 percent of median area income. This provision was proposed because of disagreement with a HUD policy to place eligible families with higher incomes ahead of those with lower incomes in awarding section 8 subsidies.

HUD ACTIONS

By December 1981 program officials had developed an interim rule incorporating the tenant rent payments and the income provisions of sections 322 and 323 of the 1981 amendments.

The Office of General Counsel retained the portion of the regulation on the tenant's rent to income ratio as a interim rule. The remainder of the regulation, including the lower income eligibility section, was developed into a proposed rule. The proposed rule was sent to OMB on March 24, 1982.

TARGET DATES

A HUD official was unable to estimate when the proposed rule would be published. While we were advised by HUD and OMB that disagreement about an issue must be resolved before the rule is cleared by OMB, neither agency would identify the issue. An OMB official told us that the issue in question had substantial budgetary impacts but declined to give further information on it.

DISCUSSION

The proposed rule restates the wording of the provision and prescribes, for the first time, income limits for the public housing program.

Procedures, in the form of handbook changes, are expected to be ready for the HUD field offices at about the time the final rule becomes effective.

Defining Tenants' Income
(Section 322)

PROVISION OF 1981 AMENDMENTS

According to this provision, income is defined as that from all sources of each household member, determined according to criteria prescribed by the Secretary of HUD. Adjusted income is the income remaining after deductions prescribed by the Secretary.

BACKGROUND

S. 1074 would have instituted a statutory definition of income for all Federal rental assistance programs which would include sources previously ignored, such as food stamps, unemployment compensation, and income earned by minors.

The House and the Senate bills were similar, with the House provision incorporated into the 1981 amendments; that is, requiring the Secretary to prescribe criteria for defining income.

HUD ACTIONS

By December 1981 program officials had developed an interim rule incorporating the income and tenant rent payment provisions of sections 322 and 323 of the 1981 amendments.

The Office of General Counsel retained the portion of the regulation on the tenant's rent-to-income ratio as an interim rule. The remainder of the regulation, including the definition of income section, was developed into a proposed rule. The proposed rule was sent to OMB on March 24, 1982.

TARGET DATES

A HUD official was unable to estimate when the proposed rule would be published. While we were advised by HUD and OMB that disagreement about an issue must be resolved before the rule is cleared by OMB, neither agency would identify the issue. An OMB official told us that the issue in question had substantial budgetary impact but declined to give further information on it.

One HUD official estimated that field implementation could begin approximately 6 to 8 months after the proposed rule was published.

DISCUSSION

The draft rule specifies the uniform income sources to be included in calculating income for both the public housing and section 8 programs. This proposed rule also lists certain types of income to be excluded such as (1) earned income of minors and foster

children, (2) payments for the care of foster children, and (3) benefits from other programs such as food stamps, energy assistance, and youth employment and training.

Procedures, in the form of handbook changes, are expected to be ready for the HUD field offices at about the time the final rule becomes effective.

Changing the Basis for Section 8 Rent Increases
(Section 324)

PROVISION OF 1981 AMENDMENTS

This provision limits contract rent increases for newly constructed or substantially rehabilitated projects. The increases cannot exceed the amount of operating cost increases of comparable rental units in the same market area.

BACKGROUND

HUD bases allowable rent increases for section 8 units on annual adjustment factors computed for standard metropolitan statistical areas. In an earlier report, ^{1/} we questioned this method and recommended that HUD use annual certified financial statements to help measure the reasonableness of annual rent increases.

S. 1074 would have limited increases in contract rents to actual cost increases for the specific project.

S. 1197 proposed essentially the same provision that was enacted in the 1981 amendment.

HUD ACTIONS

A proposed rule has been drafted and is in internal review.

TARGET DATES

HUD hopes to have a rule in effect by October 1982.

DISCUSSION

HUD has concluded that the change in calculating annual rent increases will apply only to those contracts signed under the provision of the 1981 amendments.

^{1/}"How to House More People at Lower Costs Under the Section 8 New Construction Program" (CED-84-54, Mar. 6, 1981).

Determining the Plans for
Withdrawal by Section 8 Owners
(Section 326)

PROVISION OF 1981 AMENDMENTS

By August 1982 HUD must conduct a survey to determine the number of projects owned by developers with 5-year contracts who plan to (1) withdraw from the program at contract expiration and (2) increase rents beyond a level current tenants can afford.

HUD is also required to report by August 1982 on alternative methods which could be used to recapture front-end Federal subsidies on units removed from the section 8 program.

BACKGROUND

After their initial 5-year contract expires, owners may want to remove some or all of their units from section 8 coverage. To encourage renewals, we had earlier recommended that HUD study the feasibility of economic incentives and contractual sanctions. 1/

S. 1074 and S. 1197 proposed essentially the same provision that was enacted in the 1981 amendments.

Although the second report has not been started, a HUD representative said that HUD has found no methods for recapturing the investment costs. He believes that contracts signed before October 1, 1981, are "untouchable" regarding recouping investment costs.

TARGET DATES

HUD expects both reports to go to the Congress in August 1982.

DISCUSSION

A HUD official thought that only a few owners would withdraw 100 percent of their units from the program, with the remaining owners withdrawing only some of their units. He also said that HUD will try to provide affected tenants with certificates for other rental housing.

1/"How to House More People at Lower Costs Under the Section 8 New Construction Program" (CED-84-54, Mar. 6, 1981).

Prohibiting Financial Profit
by Government Officials
(Section 326)

PROVISION OF 1981 AMENDMENTS

This provision instructs HUD to develop regulations to prevent conflicts of interest arising from participation in section 8 projects by Federal, State, and local government officials. The regulations were to become effective within 180 days of the enactment of the 1981 housing amendments (Feb. 13, 1982).

BACKGROUND

Both S.1074 and S.1197 specifically prohibited State and local housing officials from having a direct financial interest in the development of section 8 projects.

HUD ACTION

A draft interim rule was developed in the Office of General Counsel in April 1982.

TARGET DATES

The Office of General Counsel official who drafted this regulation could not estimate time frames for the regulation's clearance. He said that the regulation would have to be approved by the Justice Department and would probably be reviewed by several representatives of the Assistant Secretary for Housing and within the Office of General Counsel.

DISCUSSION

Section 8 contracts already contain a clause prohibiting financial profit by State and local officials. Thus, for such officials, this interim rule will put into regulatory form a policy already effective in the section 8 program. A HUD official told us that under this rule, "federal officials" is expanded to include cabinet members and agency officials as well as Congressmen and women.

According to a HUD official, no Government official could be brought to trial under this provision because conflicts of interest are not violations of the criminal code. Rather, the complaint would be handled through administrative actions by the HUD field office. Examples of these actions include requiring Government officials to remove themselves from the board of the section 8 project and disallowing the costs which represent profit to the officials.

WILLIAM L. ARMSTRONG
COLORADO

United States Senate
WASHINGTON, D.C. 20510

March 17, 1982

The Honorable Charles Bowsher
Comptroller General of the United States
Washington, D.C. 20548

Dear Mr. Bowsher:

I would appreciate the assistance of the General Accounting Office in analyzing the implementation by the Department of Housing and Urban Affairs of provisions included in last year's Omnibus Reconciliation Act that affect federally subsidized housing programs.

A number of changes were included in last year's reconciliation bill that affect subsidized housing. Many of the changes were ones I advocated, and were based on GAO reports and recommendations. I am concerned that several of the provisions of that law have not yet been implemented by HUD.

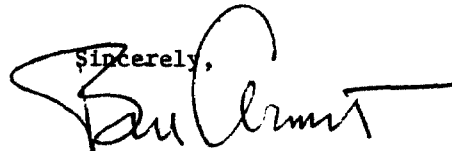
Therefore, I would appreciate GAO's review of this matter. In particular, I would like to have the benefit of your analysis of those provisions that changed use of the Secretary's Discretionary Fund, eligibility, unit size, methods of financing, availability to illegal aliens, use of amenities, types of construction and other matters your staff may find appropriate.

It would be helpful if GAO could report back to me as soon as possible on this matter...in time for upcoming hearings and mark-up of pending housing authorization legislation.

Thank you for your courtesy. If you have any questions, please call Brian Waidmann or Debbie Buettner (224-5941).

Best regards.

Sincerely,



William L. Armstrong

WLA:bbe

In reply, please refer to: WLA:bbe

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