



441 G St. N.W.
Washington, DC 20548

B-326640

February 17, 2015

The Honorable Richard Shelby
Chairman
The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing, and Urban Development
United States Senate

The Honorable Jeb Hensarling
Chairman
The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
House of Representatives

Subject: *Department of Housing and Urban Development: Housing Trust Fund*

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 "Housing Trust Fund" (RIN: 2506-AC30). We received the rule on January 30, 2015. It was published in the *Federal Register* as an interim rule on January 30, 2015. 80 Fed. Reg. 5200.

The interim rule establishes the regulations that will govern the Housing Trust Fund (HTF) program, as established by the Housing and Economic Recovery Act of 2008. The purpose of the HTF is to provide grants to state governments to increase and preserve the supply of rental housing for extremely low- and very low-income families, including homeless families, and to increase homeownership for extremely low- and very low-income families. HUD issued the rule as an interim rule. It is HUD's intention to open this interim rule for public comment to solicit comments once funding is available and the grantees gain experience administering the HTF program.

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 of the procedural steps taken indicates that HUD complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

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

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
ENTITLED
"HOUSING TRUST FUND"
(RIN: 2506-AC30)

(i) Cost-benefit analysis

The Department of Housing and Urban Development (HUD) prepared a cost-benefit analysis in conjunction with the interim rule. HUD determined that the three primary impacts of the interim rule include transfers from the government-sponsored entities (Fannie Mae and Freddie Mac) and/or Treasury to states for investment in low-income housing; distribution among the states based on the formula HUD establishes for the Housing Trust Fund (HTF) program; and the effects of the program's administration requirements.

According to HUD, the primary benefit of the HTF program will be the reduction of the number of homeless families and individuals, as well as the number of families paying a disproportionate share of their income for housing in relatively tight housing markets. HTF is a transfer to the low-income housing sector from the government-sponsored enterprises (GSEs) and/or the Department of the Treasury. HUD states that the size of the annual impact is equivalent to the size of the total HTF expenditures, which will vary depending on the amount of GSE business in a given year and any amounts that may be appropriated, transferred, or credited to HTF under any other provision of law. There will be no allocation of grants under HTF if there is no revenue from GSEs or other funds as provided by the Housing and Economic Recovery Act of 2008. The formula for distributing among the states is largely determined by the statutory formula, and the law further directs that each of the 50 states and the District of Columbia are to receive a minimum allocation of \$3 million. HUD's policy discretion in choosing the weights for housing needs factors has the impact of redistributing allocations among states; however, at a national level, the discretion has almost no impact because all funds are spent on low-income housing regardless of the state. Finally, HUD states that the regulations governing program administration are not expected to have significant economic impacts. According to HUD, state grantees are already familiar with HTF's basic compliance requirements and procedures and will not have to develop significant capacity to participate in the program.

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

HUD determined that the interim 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

HUD determined that the interim rule does not impose any federal mandate on state, local, or tribal governments, or on the private sector.

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

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

On October 29, 2010, HUD published a notice of proposed rulemaking in *the Federal Register*. 75 Fed. Reg. 66,978. HUD received 13 comments on the proposed rule, and HUD responded to concerns raised in these comments in the interim rule. 80 Fed. Reg. 5200. HUD is issuing the rule as an interim rule and states that it is HUD's intention that following the funding of HFT as provided in the Housing and Economic Recovery Act of 2008, and allocations of funds to states as provided in the interim rule, HUD will open the interim rule for public comment to solicit comments on how these rules work once funding is available and the grantees gain experience administering the HTF program.

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

The interim rule contains information collection requirements under PRA. The information collection requirements have been submitted to the Office of Management and Budget (OMB) for review and assigned an OMB control number.

Statutory authorization for the rule

The interim rule was authorized by section 1337 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as added by section 1131 of the Housing and Economic Recovery Act of 2008 (Pub. L. No. 110-289).

Executive Order No. 12,866 (Regulatory Planning and Review)

The interim rule was reviewed by OMB and determined to be economically significant under the Order.

Executive Order No. 13,132 (Federalism)

HUD determined that the interim rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law.