

Fiscal Year 2013 General Provisions

Sec. 201. Fifty percent of the amounts of budget authority, or in lieu thereof 50 percent of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 1437 note) shall be [rescinded] *cancelled* or in the case of cash, shall be remitted to the Treasury, and such amounts of budget authority or cash recaptured and not [rescinded] *cancelled* or remitted to the Treasury shall be used by State housing finance agencies or local governments or local housing agencies with projects approved by the Secretary of Housing and Urban Development for which settlement occurred after January 1, 1992, in accordance with such section. Notwithstanding the previous sentence, the Secretary may award up to 15 percent of the budget authority or cash recaptured and not [rescinded] *cancelled* or remitted to the Treasury to provide project owners with incentives to refinance their project at a lower interest rate.

Explanation of this Section: This section governs the sharing of savings that result from certain Section 8 project bond refinancing. Section 1012 of the McKinney Act requires HUD to split the recaptures evenly between Treasury and State Housing Finance Agencies.

Proposed Action: The President's Budget proposes retaining this section.

Sec. 202. None of the amounts made available under this Act may be used during fiscal year [2012] *2013* to investigate or prosecute under the Fair Housing Act any otherwise lawful activity engaged in by one or more persons, including the filing or maintaining of a nonfrivolous legal action, that is engaged in solely for the purpose of achieving or preventing action by a Government official or entity, or a court of competent jurisdiction.

Explanation of this Section: This section makes clear that the Department will not use its authority under the Fair Housing Act to investigate or prosecute legal activity.

Proposed Action: The President's Budget proposes retaining this section.

Sec. 203.

(a) Notwithstanding section 854(c)(1)(A) of the AIDS Housing Opportunity Act (42 U.S.C. 12903(c)(1)(A)), from any amounts made available under this title for fiscal year [2012] 2013 that are allocated under such section, the Secretary of Housing and Urban Development shall allocate and make a grant, in the amount determined under subsection (b), for any State that--

(1) received an allocation in a prior fiscal year under clause (ii) of such section; and

(2) is not otherwise eligible for an allocation for fiscal year [2012] 2013 under such clause (ii) because the areas in the State outside of the metropolitan statistical areas that qualify under clause (i) in fiscal year [2011] 2013 do not have the number of cases of acquired immunodeficiency syndrome (AIDS) required under such clause.

(b) The amount of the allocation and grant for any State described in subsection (a) shall be an amount based on the cumulative number of AIDS cases in the areas of that State that are outside of metropolitan statistical areas that qualify under clause (i) of such section 854(c)(1)(A) in fiscal year [2012] 2013, in proportion to AIDS cases among cities and States that qualify under clauses (i) and (ii) of such section and States deemed eligible under subsection (a).

(c) Notwithstanding any other provision of law, the amount allocated for fiscal year [2012] 2013 under section 854(c) of the AIDS Housing Opportunity Act (42 U.S.C. 12903(c)), to the city of New York, New York, on behalf of the New York-Wayne-White Plains, New York-New Jersey Metropolitan Division (hereafter "metropolitan division") of the New York-Newark-Edison, NY-NJ-PA Metropolitan Statistical Area, shall be adjusted by the Secretary of Housing and Urban Development by:

(1) allocating to the city of Jersey City, New Jersey, the proportion of the metropolitan area's or division's amount that is based on the number of cases of AIDS reported in the portion of the metropolitan area or division that is located in Hudson County, New Jersey, and adjusting for the proportion of the metropolitan division's high-incidence bonus if this area in New Jersey also has a higher than average per capita incidence of AIDS; and

(2) allocating to the city of Paterson, New Jersey, the proportion of the metropolitan area's or division's amount that is based on the number of cases of AIDS reported in the portion of the metropolitan area or division that is located in Bergen County and Passaic County, New Jersey, and adjusting for the proportion of the metropolitan division's high incidence bonus if this area in New Jersey also has a higher than average per capita incidence of AIDS. The recipient cities shall use amounts allocated under this subsection to carry out eligible activities under section 855 of the AIDS Housing Opportunity Act (42

U.S.C. 12904) in their respective portions of the metropolitan division that is located in New Jersey.

(d) Notwithstanding any other provision of law, the amount allocated for fiscal year [2012] 2013 under section 854(c) of the AIDS Housing Opportunity Act (42 U.S.C. 12903(c)) to areas with a higher than average per capita incidence of AIDS, shall be adjusted by the Secretary on the basis of area incidence reported over a 3-year period.

(e) Section 203(a)(2) of the Department of Housing and Urban Development Appropriations Act, 2012 is amended by striking "2011" and inserting "2012".

Explanation of this Section: This provision gives HUD the authority within its Housing Opportunities for Persons with AIDS (HOPWA) program to honor agreements between the cities that are initially designated to be a formula grant recipient and their state, giving the state the right to assume the grant responsibility. The state assuming the grant management responsibilities for the initially designated grant recipient must use the resources on behalf of HOPWA eligible clients within the Metropolitan Statistical Area for which those funds were initially allocated. This provision also allows the two prior HOPWA grantees in New Jersey (Paterson and Jersey City) to continue to receive direct allocations rather than give these funds to New York City to then subcontract in these areas. It also allows the program to use AIDS incidence data collected over a three year period, rather than one year data, to calculate the high-incidence factor of its formula, which makes up 25% of formula funds.

Proposed Action: The Department proposes retaining this provision.

Sec. 204. Except as explicitly provided in law, any grant, cooperative agreement or other assistance made pursuant to title II of this Act shall be made on a competitive basis and in accordance with section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545).

Explanation of this Section: This provision requires that HUD funds be subject to competition unless specified otherwise in statute.

Proposed Action: The Department proposes retaining this provision.

Sec. 205. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of the Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Federal Reserve banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811-1).

Explanation of this Section: This provision makes limitations on administrative expenses inapplicable to certain expenditures of Ginnie Mae, including legal services contracts and the expenses of carrying out its programmatic duties. This provision ensures that administrative expenses limitation language in annual appropriations bills does not preclude Ginnie Mae's reliance upon its permanent, indefinite appropriation, in Section 1 of the National Housing Act, for essential operating funds.

Proposed Action: The Department proposes retaining this provision.

[**Sec. 206.** Unless otherwise provided for in this Act or through a reprogramming of funds, no part of any appropriation for the Department of Housing and Urban Development shall be available for any program, project or activity in excess of amounts set forth in the budget estimates submitted to Congress.]

Explanation of this Section: This provision forbids HUD from spending more money on any program than they proposed in the budget estimates, unless a different amount is appropriated or provided in a reprogramming.

Proposed Action: The Department proposes deleting this provision because it is redundant.

Sec. [207]206. Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of such Act as may be necessary in carrying out the programs set forth in the budget for [2012] 2013 for such corporation or agency except as hereinafter provided: Provided, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations

Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

Explanation of this Section: This section is an authorization by which Congress implements its responsibilities under section 104 of the Government Corporation Control Act (31 U.S.C. 9104). After consideration of Ginnie Mae's budget program, as submitted by the President, Congress, through this section, ratifies such budget program and authorizes expenditures of funds, both provided in the appropriations act (for salaries and expenses) and by the permanent indefinite appropriation in Section 1 of the National Housing Act, necessary to carry out the programs set forth in Ginnie Mae's budget program for the coming year.

Proposed Action: The Department proposes retaining this provision.

Sec. [208]207. The Secretary of Housing and Urban Development shall provide quarterly reports to the House and Senate Committees on Appropriations regarding all uncommitted, unobligated, recaptured and excess funds in each program and activity within the jurisdiction of the Department and shall submit additional, updated budget information to these Committees upon request.

Explanation of this Section: This provision requires HUD to submit quarterly reports on status of funds.

Proposed Action: The Department proposes retaining this provision.

Sec. [209]208.

(a) Notwithstanding any other provision of law, the amount allocated for fiscal year [2012] 2013 under section 854(c) of the AIDS Housing Opportunity Act (42 U.S.C. 12903(c)), to the city of Wilmington, Delaware, on behalf of the Wilmington, Delaware-Maryland-New Jersey Metropolitan Division (hereafter "metropolitan division"), shall be adjusted by the Secretary of Housing and Urban Development by allocating to the State of New Jersey the proportion of the metropolitan division's amount that is based on the number of cases of AIDS reported in the portion of the metropolitan division that is located in New Jersey, and adjusting for the proportion of the metropolitan division's high incidence bonus if this area in New Jersey also has a higher than average per capita incidence of AIDS. The State of New Jersey shall use amounts allocated to the State under this subsection to carry out eligible activities under section 855 of the AIDS Housing Opportunity Act (42 U.S.C. 12904) in the portion of the metropolitan division that is located in New Jersey.

(b) Notwithstanding any other provision of law, the Secretary of Housing and Urban Development shall allocate to Wake County, North Carolina, the amounts that otherwise would be allocated for fiscal year [2012] *2013* under section 854(c) of the AIDS Housing Opportunity Act (42 U.S.C. 12903(c)) to the city of Raleigh, North Carolina, on behalf of the Raleigh-Cary North Carolina Metropolitan Statistical Area. Any amounts allocated to Wake County shall be used to carry out eligible activities under section 855 of such Act (42 U.S.C. 12904) within such metropolitan statistical area.

(c) Notwithstanding section 854(c) of the AIDS Housing Opportunity Act (42 U.S.C. 12903(c)), the Secretary of Housing and Urban Development may adjust the allocation of the amounts that otherwise would be allocated for fiscal year [2012] *2013* under section 854(c) of such Act, upon the written request of an applicant, in conjunction with the State(s), for a formula allocation on behalf of a metropolitan statistical area, to designate the State or States in which the metropolitan statistical area is located as the eligible grantee(s) of the allocation. In the case that a metropolitan statistical area involves more than one State, such amounts allocated to each State shall be in proportion to the number of cases of AIDS reported in the portion of the metropolitan statistical area located in that State. Any amounts allocated to a State under this section shall be used to carry out eligible activities within the portion of the metropolitan statistical area located in that State.

Explanation of this Section: This provision allows funds for one county in New Jersey (Salem) to be transferred from the Wilmington, DE formula allocation to the state of New Jersey for the New Jersey area of that Metropolitan Statistical Area (MSA). It allows Wake County, NC, to be retained as the grantee for the City of Raleigh, NC on behalf of the Raleigh-Cary, North Carolina MSA. It allows for the continued eligibility of a state to receive HOPWA funds if later an MSA directly qualified and the balance of state area outside of that MSA would then be below the threshold of cases of AIDS to receive HOWPA funds. Funds will then be prorated to the AIDS data for that balance of state area and allocated to allow programs to continue in that area.

Proposed Action: The Department proposes retaining this provision.

[**Sec. 210.** The President's formal budget request for fiscal year 2013, as well as the Department of Housing and Urban Development's congressional budget justifications to be submitted to the Committees on Appropriations of the House of Representatives and the Senate, shall use the identical account and sub-account structure provided under this Act.]

Explanation of this Section: This provision requires the Department to structure its budget request in an identical way to the structure of the Appropriations Act.

Proposed Action: The Department proposes deleting this provision. The Department provides its justification in this format and will continue to do so.

Sec. [211]209. A public housing agency or such other entity that administers Federal housing assistance for the Housing Authority of the county of Los Angeles, California, the States of Alaska, Iowa, and Mississippi shall not be required to include a resident of public housing or a recipient of assistance provided under section 8 of the United States Housing Act of 1937 on the board of directors or a similar governing board of such agency or entity as required under section (2)(b) of such Act. Each public housing agency or other entity that administers Federal housing assistance under section 8 for the Housing Authority of the County of Los Angeles, California and the States of Alaska, Iowa and Mississippi that chooses not to include a resident of public housing or a recipient of section 8 assistance on the board of directors or a similar governing board shall establish an advisory board of not less than six residents of public housing or recipients of section 8 assistance to provide advice and comment to the public housing agency or other administering entity on issues related to public housing and section 8. Such advisory board shall meet not less than quarterly.

Explanation of this Section: This provision allows PHA Boards in Alaska, Iowa, and Mississippi and the County of Los Angeles to establish advisory boards in lieu of the public housing resident representation requirement.

Proposed Action: The Department proposes retaining this provision as it provides flexibility for PHAs in choosing the governance structure that works best for them.

Sec. [212]210.

(a) Notwithstanding any other provision of law, subject to the conditions listed in subsection (b), for fiscal years [2012] 2013 and [2013] 2014, the Secretary of Housing and Urban Development may authorize the transfer of some or all project-based assistance, debt and statutorily required low-income and very low-income use restrictions, associated with one or more multifamily housing project to another multifamily housing project or projects.

(b) Phased Transfers.--Transfers of project-based assistance under this section may be done in phases to accommodate the financing and other requirements related to rehabilitating or constructing the project or projects to which the assistance is transferred, to ensure that such project or projects meet the standards under section (c).

(c) The transfer authorized in subsection (a) is subject to the following conditions:

(1) Number and bedroom size of units.--

(A) For occupied units in the transferring project: the number of low-income and very low-income units and the configuration (i.e. bedroom size) provided by the transferring project shall be no less than when transferred to the receiving project or projects [and the net dollar amount of Federal assistance provided by the transferring project shall remain the same in the receiving project or projects].

(B) For unoccupied units in the transferring project: the Secretary may authorize a reduction in the number of dwelling units in the receiving project or projects to allow for a reconfiguration of bedroom sizes to meet current market demands, as determined by the Secretary [and provided there is no increase in the project-based section 8 budget authority].

(2) The net dollar amount of Federal assistance provided to the transferring project shall remain the same as the receiving project or projects.

[(2)](3) The transferring project shall, as determined by the Secretary, be either physically obsolete or economically nonviable.

[(3)](4) The receiving project or projects shall meet or exceed applicable physical standards established by the Secretary.

[(4)](5) The owner or mortgagor of the transferring project shall notify and consult with the tenants residing in the transferring project and provide a certification of approval by all appropriate local governmental officials.

[(5)](6) The tenants of the transferring project who remain eligible for assistance to be provided by the receiving project or projects shall not be required to vacate their units in the transferring project or projects until new units in the receiving project are available for occupancy.

[(6)](7) The Secretary determines that this transfer is in the best interest of the tenants.

[(7)](8) If either the transferring project or the receiving project or projects meets the condition specified in subsection (d)(2)(A), any lien on the receiving project resulting from additional financing obtained by the owner shall be subordinate to any

FHA-insured mortgage lien transferred to, or placed on, such project by the Secretary, except that the Secretary may waive this requirement upon determination that such a waiver is necessary to facilitate the financing of acquisition, construction, and/or rehabilitation of the receiving project or projects.

[(8)](9) If the transferring project meets the requirements of subsection (d)(2)(E), the owner or mortgagor of the receiving project or projects shall execute and record either a continuation of the existing use agreement or a new use agreement for the project where, in either case, any use restrictions in such agreement are of no lesser duration than the existing use restrictions.

(10) The transfer does not increase the cost (as defined in section 502 of the Congressional Budget Act of 1974, as amended) of any FHA-insured mortgage, except to the extent that appropriations are provided in advance for the amount of any such increased cost.

(d) For purposes of this section--

(1) the terms "low-income" and "very low-income" shall have the meanings provided by the statute and/or regulations governing the program under which the project is insured or assisted;

(2) the term "multifamily housing project" means housing that meets one of the following conditions--

(A) housing that is subject to a mortgage insured under the National Housing Act;

(B) housing that has project-based assistance attached to the structure including projects undergoing mark to market debt restructuring under the Multifamily Assisted Housing Reform and Affordability Housing Act;

(C) housing that is assisted under section 202 of the Housing Act of 1959 as amended by section 801 of the Cranston-Gonzales National Affordable Housing Act;

(D) housing that is assisted under section 202 of the Housing Act of 1959, as such section existed before the enactment of the Cranston-Gonzales National Affordable Housing Act; [or]

(E) housing that is assisted under section 811 of the Cranston-Gonzales National Affordable Housing Act; or

[(E)](F) housing or vacant land that is subject to a use agreement;

(3) the term "project-based assistance" means--

(A) assistance provided under section 8(b) of the United States Housing Act of 1937;

(B) assistance for housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of such Act (as such section existed immediately before October 1, 1983);

(C) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965;

(D) interest reduction payments under section 236 and/or additional assistance payments under section 236(f)(2) of the National Housing Act;

(E) assistance payments made under section 202(c)(2) of the Housing Act of 1959; and

(F) assistance payments made under section 811(d)(2) of the Housing Act of 1959;

(4) the term "receiving project or projects" means the multifamily housing project or projects to which some or all of the project-based assistance, debt, and statutorily required [use] low-income and very low-income use restrictions are to be transferred;

(5) the term "transferring project" means the multifamily housing project which is transferring some or all of the project-based assistance, debt and the statutorily required low-income and very low-income use restrictions to the receiving project or projects; and

(6) the term "Secretary" means the Secretary of Housing and Urban Development.

(e) The Secretary shall publish by notice in the Federal Register the terms and conditions, including criteria for HUD approval, of transfers pursuant to this section no later than 30 days before the effective date of such notice.

Explanation of this Section: This provision allows the transfer of subsidy, debt and use restrictions from an obsolete multifamily project to a viable multifamily project under a variety of specified conditions. The Department also proposes to require the terms and conditions of such transfers to be published in the Federal Register for increased transparency.

Proposed Action: The Department proposes to retain this provision with the authority effective for Fiscal Years 2013 and 2014. The Department also proposes to require the terms and conditions of such transfers to be published in the Federal Register for increased transparency.

[**Sec. 213.** The funds made available for Native Alaskans under the heading "Native American Housing Block Grants" in title III of this Act shall be allocated to the same Native Alaskan housing block grant recipients that received funds in fiscal year 2005.]

Explanation of this Section: This provision requires HUD to allocate Native American Housing Block Grant funds individually to the 222 Native Alaskan villages.

Proposed Action: The Department proposes deleting this provision. It is more efficient for HUD to work with the Alaska's fourteen regional housing authorities to implement these grants than to work with the 222 native villages individually.

[**Sec. 214.** No funds provided under this title may be used for an audit of the Government National Mortgage Association that makes applicable requirements under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).]

Explanation of this Section: This provision prohibits use of GNMA funds for certain audit activities.

Proposed Action: The Department proposes deleting this provision as it has no effect on the audits of GNMA.

[**Sec. 215.**

(a) No assistance shall be provided under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) to any individual who--

(1) is enrolled as a student at an institution of higher education (as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002));

(2) is under 24 years of age;

(3) is not a veteran;

(4) is unmarried;

(5) does not have a dependent child;

(6) is not a person with disabilities, as such term is defined in section 3(b)(3)(E) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)(E)) and was not receiving assistance under such section 8 as of November 30, 2005; and

(7) is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible, to receive assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(b) For purposes of determining the eligibility of a person to receive assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), any financial assistance (in excess of amounts received for tuition and any other required fees and charges) that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except for a person over the age of 23 with dependent children.]

Explanation of this Section: This provision explains situations where HUD rental assistance could not be extended.

Proposed Action: The Department recommends the deletion of this provision. All of the requirements set forward are included in program rules issued by HUD, making this provision obsolete.

Sec. [216]211. [Notwithstanding the limitation in the first sentence of section 255(g) of the National Housing Act (12 U.S.C. 1715z-g), the Secretary of Housing and Urban Development may, until September 30, 2012, insure and enter into commitments to

insure mortgages under] The first sentence of section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)) is repealed.

Explanation of this Section: This provision removes the aggregate mortgage cap in the first sentence in Section 255(g) of the National Housing Act (Act), which limits the total number of Home Equity Conversion Mortgages (HECM) loans that can be insured by the FHA.

Proposed Action: The Department proposes to repeal the first sentence in the Act to remove the cap permanently. Previously, the exemption was authorized fiscal year by fiscal year.

[**Sec. 217.** Notwithstanding any other provision of law, in fiscal year 2012, in managing and disposing of any multifamily property that is owned or has a mortgage held by the Secretary of Housing and Urban Development, and during the process of foreclosure on any property with a contract for rental assistance payments under section 8 of the United States Housing Act of 1937 or other Federal programs, the Secretary shall maintain any rental assistance payments under section 8 of the United States Housing Act of 1937 and other programs that are attached to any dwelling units in the property. To the extent the Secretary determines, in consultation with the tenants and the local government, that such a multifamily property owned or held by the Secretary is not feasible for continued rental assistance payments under such section 8 or other programs, based on consideration of (1) the costs of rehabilitating and operating the property and all available Federal, State, and local resources, including rent adjustments under section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 ("MAHRAA") and (2) environmental conditions that cannot be remedied in a cost-effective fashion, the Secretary may, in consultation with the tenants of that property, contract for project-based rental assistance payments with an owner or owners of other existing housing properties, or provide other rental assistance. The Secretary shall also take appropriate steps to ensure that project-based contracts remain in effect prior to foreclosure, subject to the exercise of contractual abatement remedies to assist relocation of tenants for imminent major threats to health and safety after written notice to and informed consent of the affected tenants and use of other available remedies, such as partial abatements or receivership. After disposition of any multifamily property described under this section, the contract and allowable rent levels on such properties shall be subject to the requirements under section 524 of MAHRAA.]

Explanation of this Section: This provision governs the use of project-based subsidy in connection with managing and disposing of multifamily properties.

Proposed Action: The Department proposes elimination of the provision as it limits the Department's flexibility in dealing with multifamily properties.

[**Sec. 218.** The Secretary of Housing and Urban Development shall report quarterly to the House of Representatives and Senate Committees on Appropriations on HUD's use of all sole-source contracts, including terms of the contracts, cost, and a substantive rationale for using a sole-source contract.]

Explanation of this Section: This provision requires HUD to prepare quarterly reports on the use of sole source contracts.

Proposed Action: The Department proposes to eliminate this provision. Data on the use of sole source contracts are collected elsewhere, including USAspending.gov, and therefore requiring a separate HUD report is duplicative and is an excessive burden.

Sec. [219]212. During fiscal year [2012] *2013*, in the provision of rental assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) in connection with a program to demonstrate the economy and effectiveness of providing such assistance for use in assisted living facilities that is carried out in the counties of the State of Michigan notwithstanding paragraphs (3) and (18)(B)(iii) of such section 8(o), a family residing in an assisted living facility in any such county, on behalf of which a public housing agency provides assistance pursuant to section 8(o)(18) of such Act, may be required, at the time the family initially receives such assistance, to pay rent in an amount exceeding 40 percent of the monthly adjusted income of the family by such a percentage or amount as the Secretary of Housing and Urban Development determines to be appropriate.

Explanation of this Section: This provision authorizes the Secretary to waive certain requirements on adjusted income for certain assisted living projects for counties in Michigan.

Proposed Action: The Department proposes retaining this provision. The flexibility it provides to certain PHAs enables them to execute innovative practices that better serve households.

[**Sec. 220.** Notwithstanding any other provision of law, the recipient of a grant under section 202b of the Housing Act of 1959 (12 U.S.C. 1701q) after December 26, 2000, in accordance with the unnumbered paragraph at the end of section 202(b) of such Act, may, at its option, establish a single-asset nonprofit entity to own the project and may lend the grant funds to such entity, which may be a private nonprofit organization described in section 831 of the American Homeownership and Economic Opportunity Act of 2000.]

Explanation of this Section: This section states that section 202(b) grants after December 2000 may go to private, non-profit organizations.

Proposed Action: The Department proposes to delete this provision as it is now permanent law, enacted as section 220 of P.L. 111-117.

Sec. [221]213. The [amounts] *commitment authority funded by fees as* provided under the subheading "Program Account" under the heading "Community Development Loan Guarantees" may be used to guarantee, or make commitments to guarantee, notes, or other obligations issued by any State on behalf of non-entitlement communities in the State in accordance with the requirements of section 108 of the Housing and Community Development Act of 1974: Provided, That any State receiving such a guarantee or commitment shall distribute all funds subject to such guarantee to the units of general local government in non-entitlement areas that received the commitment.

Explanation of this Section: This provision allows non-entitlement areas to qualify for Section 108 loans under their State CDBG program and for the program to be funded by fees.

Proposed Action: The Department proposes retaining this provision, changing the language slightly to reflect the new, fee-based Section 108 program.

[**Sec. 222.** Section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v) is amended--

(1) in subsection (m)(1), by striking "fiscal year" and all that follows through the period at the end and inserting "fiscal year 2012."; and

(2) in subsection (o), by striking "September" and all that follows through the period at the end and inserting "September 30, 2012.".]

Explanation of this Section: This provision extends the authorization of appropriations and sunset provision in the HOPE VI statute through fiscal year 2012.

Proposed Action: The Department proposes deleting this provision because the HOPE VI program has been replaced by the Choice Neighborhoods program. The Budget proposes a new Section 233 to allow HUD to continue to obligate and expend balances from prior-year appropriations for HOPE VI and Choice Neighborhoods.

[**Sec. 223.** Public housing agencies that own and operate 400 or fewer public housing units may elect to be exempt from any asset management requirement imposed by the Secretary of Housing and Urban Development in connection with the operating fund rule: Provided, That an agency seeking a discontinuance of a reduction of subsidy under the operating fund formula shall not be exempt from asset management requirements.]

Explanation of this Section: This provision permits small PHAs with 400 or fewer units to elect not to operate under asset management.

Proposed Action: The Department does not support increasing the threshold for exemption from asset management to 400 units.

[**Sec. 224.** With respect to the use of amounts provided in this Act and in future Acts for the operation, capital improvement and management of public housing as authorized by sections 9(d) and 9(e) of the United States Housing Act of 1937 (42 U.S.C. 1437g(d) and (e)), the Secretary shall not impose any requirement or guideline relating to asset management that restricts or limits in any way the use of capital funds for central office costs pursuant to section 9(g)(1) or 9(g)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437g(g)(1), (2)): Provided, That a public housing agency may not use capital funds authorized under section 9(d) for activities that are eligible under section 9(e) for assistance with amounts from the operating fund in excess of the amounts permitted under section 9(g)(1) or 9(g)(2).]

Explanation of this Section: This provision prohibits HUD restrictions on the use of capital funds for PHAs' central office/overhead costs.

Proposed Action: The Department recommends deleting this provision. It is not necessary to repeat this provision since it was enacted to apply to "future Acts."

Sec. [225]214. No official or employee of the Department of Housing and Urban Development shall be designated as an allotment holder unless the Office of the Chief Financial Officer has determined that such allotment holder has implemented an adequate system of funds control and has received training in funds control procedures and directives. The Chief Financial Officer shall ensure that [, not later than 90 days after the date of enactment of this Act,] *there* is a trained allotment holder [shall be designated] for each HUD subaccount under the heading "Administration, Operations, and Management" as well as each account receiving appropriations for "Program Office Salaries and Expenses" within the Department of Housing and Urban Development.

Explanation of this Section: This provision requires the OCFO to make sure that an adequate funds control system is in place and training on funds control procedures and directives has occurred for an official or employee before such official or employee is designated an allotment holder. It also requires the CFO to ensure that trained allotment holders are in place for each salaries and expenses account.

Proposed Action: The Department proposes retaining this provision.

[**Sec. 226.** The Secretary of Housing and Urban Development shall report quarterly to the House and Senate Committees on Appropriations on the status of all section 8 project-based housing, including the number of all project-based units by region as well as an analysis of all federally subsidized housing being refinanced under the Mark-to-Market program. The Secretary shall in the report identify all existing units maintained by region as section 8 project-based units and all project-based units that have opted out of section 8 or have otherwise been eliminated as section 8 project-based units. The Secretary shall identify in detail and by project all the efforts made by the Department to preserve all section 8 project-based housing units and all the reasons for any units which opted out or otherwise were lost as section 8 project-based units. Such analysis shall include a review of the impact of the loss of any subsidized units in that housing marketplace, such as the impact of cost and the loss of available subsidized, low-income housing in areas with scarce housing resources for low-income families.]

Explanation of this Section: This provision requires HUD to prepare quarterly reports on section 8 project-based housing.

Proposed Action: The Department proposes to eliminate this reporting requirement; however, it recognizes the Congress' continued interest in the report. On a semi-annual basis the Department is able provide data on the status of all section 8 project-based units by region, an analysis of refinancing under the Mark-to-Market program, existing section 8 units, and units that have opted out or been eliminated as section 8 project-based units. The Department does not have the resources or capacity to collect

data or report on the requirement to identify all efforts to preserve section 8 project-based units, reasons why units opted out or were lost as section 8 project-based units, and the impact of such losses on affected markets.

[**Sec. 227.** Payment of attorney fees in program-related litigation must be paid from individual program office personnel benefits and compensation funding. The annual budget submission for program office personnel benefit and compensation funding must include program-related litigation costs for attorney fees as a separate line item request.]

Explanation of this Section: This provision requires the Department to pay all program-related litigation attorney fees out individual personnel benefits accounts. These costs must be reflected as a separate line item request in the budget submission.

Proposed Action: The Department proposes deleting this provision.

Sec. [228]215. The Secretary of the Department of Housing and Urban Development shall for fiscal year [2012] 2013 and subsequent fiscal years, notify the public through the Federal Register and other means, as determined appropriate, of the issuance of a notice of the availability of assistance or notice of funding availability (NOFA) for any program or discretionary fund administered by the Secretary that is to be competitively awarded. Notwithstanding any other provision of law, for fiscal year [2012] 2013 and subsequent fiscal years, the Secretary may make the NOFA available only on the Internet at the appropriate Government Web site or through other electronic media, as determined by the Secretary.

Explanation of this Section: This provision requires the Department to publish notices of availability of assistance or funding availability for any program that is competitively awarded. These notices may be published on the Internet.

Proposed Action: The Department proposes retaining this provision.

Sec. [229]216. The Secretary of the Department of Housing and Urban Development is authorized to transfer up to 5 percent or \$5,000,000, whichever is less, of the funds appropriated for any office funded under the heading "Administration, Operations, and Management" to any other office funded under such heading: Provided, That no appropriation for any office funded under the heading "Administration, Operations, and Management" shall be increased or decreased by more than 5 percent or \$5,000,000, whichever is less, without prior written [approval of] notification to the House and Senate Committees on Appropriations: Provided

further, That the Secretary is authorized to transfer up to 5 percent or \$5,000,000, whichever is less, of the funds appropriated for any account funded under the general heading "Program Office Salaries and Expenses" to any other account funded under such heading: Provided further, That no appropriation for any account funded under the general heading "Program Office Salaries and Expenses" shall be increased or decreased by more than 5 percent or \$5,000,000, whichever is less, without prior written [approval of] *notification to* the House and Senate Committees on Appropriations: Provided further, That the Secretary may transfer funds made available for salaries and expenses between any office funded under the heading "Administration, Operations and Management" and any account funded under the general heading "Program Office Salaries and Expenses", but only with the prior written [approval of] *notification to* the House and Senate Committees on Appropriations.

Explanation of this Section: This provision gives the Secretary the ability to transfer as needed a defined amount of funds between all accounts that provide for personnel and non-personnel expenses.

Proposed Action: The Department proposes retaining this provision.

Sec. [230]217. The Disaster Housing Assistance Programs, administered by the Department of Housing and Urban Development, shall be considered a "program of the Department of Housing and Urban Development" under section 904 of the McKinney Act for the purpose of income verifications and matching.

Explanation of this Section: This provision ensures that all recipients of HUD Disaster Assistance funds meet the criteria set forth for income verification and matching set forth by the McKinney Act.

Proposed Action: The Department proposes retaining this provision.

[**Sec. 231.** The Comptroller General of the United States shall carry out a study of the effectiveness of the block grant programs administered by the Office of Community Planning and Development of the Department of Housing and Urban Development, including an examination of best practices utilized by program grantees and performance metrics utilized by the Department. Not later than 180 days of enactment of this Act, the Comptroller General shall submit a report to the Congress describing its findings, including such best practices and performance metrics.]

Explanation of this Section: This provision requests the Comptroller General to do a study of the effectiveness of HUD Community Planning and Development block grant programs.

Proposed Action: The Department proposes to delete this provision, as it is a one-time action.

[**Sec. 232.** The Secretary shall take actions necessary to improve data quality, data management, and grantee oversight and accountability with respect to programs and activities administered by the Office of Community Planning and Development. The Secretary shall address the problems identified by the Inspector General of the Department in audits and audit reports since 2006, including ongoing audits, with respect to such programs and activities. Not later than 120 days after enactment of this Act, the Secretary shall submit a report to the Congress on progress achieved by the Department with respect to addressing such problems and identifying further improvements that can be made (including improvements relating to information technology) and proposed actions and timelines to carry out such improvements.]

Explanation of this Section: This provision requests the Secretary to improve data quality, data management, and grantee oversight and accountability of CPD block grant programs.

Proposed Action: The Department proposes to delete this provision, as it is a one-time action.

Sec. [233]218. Of the amounts made available for salaries and expenses under all accounts under this title (except for the Office of Inspector General account), a total of up to \$10,000,000 may be transferred to and merged with amounts made available in the "Working Capital Fund" account under this title.

Explanation of this Section: This provision allows HUD to transfer up to \$10 million into the Working Capital Fund from salaries and expenses to fund technology priorities throughout the Department.

Proposed Action: The Department proposes retaining this provision.

[**Sec. 234.**

(a) None of the funds made available by this Act for purposes authorized under section 8 (only with respect to the tenant-based rental assistance program) and section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) may be used by any public housing agency for any amount of salary, for the chief executive officer of which, or any other official or employee of which, that exceeds the annual rate of basic pay payable for a position at level IV of the Executive Schedule at any time during any public housing agency fiscal year 2012.

(b) Subsection (a) shall take effect 120 days after the date of enactment of this Act.]

Explanation of this Section: Limits (i.e., caps) the use of FY 2013 Section 8 and Section 9 appropriations to pay salaries to public housing agency (PHA) chief executive officers, other officials, or any other employees.

Proposed Action: The Department proposes deleting this provision. In 2011, HUD instituted a requirement for PHAs to report to HUD annually the compensation provided to each of their five highest compensated employees, which will then be posted on HUD's website with job titles but without employee names. The first report will be posted on HUD's website by March 2012. PHA boards will also be required to conduct comparability analyses when determining executive director compensation levels and certify that such an analysis has been performed.

Sec. [235]219. Title II of [division I of Public Law 108-447 and title III of Public Law 109-115 are each] *Division K of Public Law 110-161* ~~is~~ amended by striking the item related to "Flexible Subsidy Fund".

Explanation of this Section: This provision eliminates the mandatory transfer of excess resources from the Rental Housing Assistance Fund to the Flexible Subsidy Fund. These excess resources cannot be spent under existing law in either account, making the transfer unnecessary.

Proposed Action: The Department proposes to eliminate the transfer requirement, and updates the provision from P.L. 112-55 to reference the most recently enacted statute requiring the transfer (P.L. 110-161). This is a conforming amendment.

[**Sec. 236.** Of the unobligated balances remaining from funds appropriated under the heading "Tenant-Based Rental Assistance" under the "Full-Year Continuing Appropriations Act, 2011", \$650,000,000 are rescinded from the \$4,000,000,000 which are available on October 1, 2011: Provided, That such amounts may be derived from reductions to public housing agencies' calendar year 2012

allocations based on the excess amounts of public housing agencies' net restricted assets accounts, including the net restricted assets of MTW agencies (in accordance with VMS data in calendar year 2011 that is verifiable and complete), as determined by the Secretary.]

Explanation of this Section: This fiscal year 2012 provision rescinded \$650 million of the \$4 billion advance appropriation for the Tenant-Based Rental Assistance account.

Proposed Action: The Department proposes deleting this provision. This was a one-time action in 2012, and the Department estimates that the provision reduces PHA net restricted assets to minimal levels.

[**Sec. 237.** Section 579 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f) is amended by striking "October 1, 2011" each place it appears and inserting in lieu thereof "October 1, 2015".]

Explanation of this Section: This section extends the Mark to Market program for four years.

Proposed Action: The Department proposes deletion of the language since an extension through 2015 was enacted in P.L. 112-55.

[**Sec. 238.** Notwithstanding any other provision of law, for mortgages for which a Federal Housing Administration case number has been assigned during the period beginning on the date of enactment of this Act and ending on December 31, 2013, the dollar amount limitation on the principal obligation for purposes of section 203 of the National Housing Act (12 U.S.C. 1709) shall be considered to be, except for purposes of section 255(g) of such Act (12 U.S.C. 1715z-20(g)), the greater of--

(1) the dollar amount limitation on the principal obligation of a mortgage determined under section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)); or]

(2) the dollar amount limitation that was prescribed for such size residence for such area for 2008 pursuant to section 202 of the Economic Stimulus Act of 2008 (Public Law 110-185; 122 Stat. 620).]

Explanation of this Section: This section raises the maximum loan limit for FHA's single-family mortgage in high-cost areas to \$729,750; it will be effective through December 31, 2013.

Proposed Action: The Department proposes to delete this provision since the authorization for increasing the maximum loan limit remains effective through December 31, 2013.

[**Sec. 239.** Of the funds made available for the "Department of Housing and Urban Development, Community Planning and Development, Community Development Fund", up to \$300,000,000, to remain available until expended, shall be for necessary expenses for activities authorized under title I of the Housing and Community Development Act of 1974 (Public Law 93-383) related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) in 2011: Provided, That funds shall be awarded directly to the State or unit of general local government at the discretion of the Secretary: Provided further, That prior to the obligation of funds a grantee shall submit a plan to the Secretary detailing the proposed use of all funds, including criteria for eligibility and how the use of these funds will address long-term recovery and restoration of infrastructure: Provided further, That such funds may not be used for activities reimbursable by, or for which funds are made available by, the Federal Emergency Management Agency or the Army Corps of Engineers: Provided further, That funds allocated under this heading shall not be considered relevant to the non-disaster formula allocations under the Community Development Fund: Provided further, That a State or subdivision thereof may use up to 5 percent of its allocation for administrative costs: Provided further, That in administering the funds under this heading, the Secretary of Housing and Urban Development may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds or guarantees (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a request by a State or subdivision thereof explaining why such waiver is required to facilitate the use of such funds or guarantees, if the Secretary finds that such waiver would not be inconsistent with the overall purpose of title I of the Housing and Community Development Act of 1974: Provided further, That the Secretary shall publish in the Federal Register any waiver of any statute or regulation that the Secretary administers pursuant to title I of the Housing and Community Development Act of 1974 no later than 5 days before the effective date of such waiver: Provided further, That an additional \$100,000,000 shall be available for the same purposes and terms described in this section and shall be designated by Congress as being for disaster relief pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985.]

Explanation of this Section: This provision sets aside up to \$300 million for CDBG funding for disaster relief for impacted areas resulting from major disasters declared pursuant to the Stafford Act in 2011. It also provides an additional \$100 million for the same purposes, but designates this amount within the disaster relief budget adjustment caps.

Proposed Action: The Department proposes to delete this provision, as the 2013 Budget does not request any CDBG funding for disaster relief.

Sec. 220. Paragraph (1) of section 242(i) of the National Housing Act (12 U.S.C. 1715z-7(i)(1)) is amended by striking "July 31, 2011" and inserting "July 31, 2016".

Explanation of this Section: This section allows critical access hospitals to be insured under section 242 of the National Housing Act.

Proposed Action: The Department proposes the addition of this provision in 2013. The Department proposes to extend the termination date of the exemption for critical access hospitals for 5 more years, from July 31, 2011 to July 31, 2016.

Sec. 221. Subparagraph (A) of Section 3(b)(6) of the U.S. Housing Act of 1937 (42 U.S.C. 1437a(b)(6)(A)) is amended by inserting before the period at the end the following: ", or a consortium of such entities or bodies as approved by the Secretary".

Explanation of this Section: This provision changes the definition of a PHA that operates public housing to include a consortium of PHAs.

Proposed Action: The Department proposes the addition of this provision in 2013. This aligns with the Department's efforts to increase operational efficiencies and reduce administrative burden on HUD and PHAs.

Sec. 222. Section 8(o) of the U.S. Housing Act of 1937 (42 U.S.C. 1437f(o)) is amended to insert a new paragraph (21) as follows:

“(21) SPONSOR-BASED ASSISTANCE FOR HOMELESS FAMILIES.

“(A) IN GENERAL-- A public housing agency may use up to five percent of its authorized units for sponsor-based rental assistance under this paragraph to provide units to house families that meet the definition of "homeless" under section 103 of the

McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302).

"(B) HOUSING ASSISTANCE CONTRACT.--Assistance under this paragraph shall be provided pursuant to a contract between the agency and a private nonprofit sponsor for the rental costs of dwelling units owned or leased by the sponsor and that shall be contingent upon the provision of supportive services to assist eligible families in achieving long-term stability. The contract shall provide for evaluation of the sponsor by the public housing agency at least once every two years for compliance and performance under the contract.

"(C) CONSULTATION.--A public housing agency shall consult with the local Continuum of Care, as identified by the Secretary, when determining the size of the population eligible for sponsor-based assistance under this paragraph, selecting a high capacity private nonprofit sponsor, and establishing an admissions preferences.

"(D) ADMISSIONS.--A public housing agency may establish an admissions preference in contracts under this paragraph for homeless families with one or more characteristics that significantly impede the ability to obtain and retain housing, as determined by the Secretary.

"(E) TENANT PROTECTIONS.--For the purposes of this paragraph, the sponsor shall administer evictions and terminations of assistance for tenants consistent with the requirements of paragraphs (7)(C), (D), (E), and (F) of this subsection. Refusal of supportive services by a family assisted under this paragraph shall not be considered good cause for termination of assistance or eviction.

"(F) DATA COLLECTION.--Public housing agencies shall require sponsors to submit data to the applicable homeless management information system (HMIS) for the geographic area, as required by the Secretary.

"(G) WAIVER.--The Secretary may waive or specify alternative requirements (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment) for any provision of section 8(o) of this Act, if necessary for the effective implementation of sponsor-based assistance.

"(H) NOTICE.-- The Secretary shall establish requirements for the implementation of this paragraph by notice published in the Federal Register."

Explanation of this Section: This provision allows PHAs to use up to five percent of their Tenant-Based Rental Assistance authorized units to enter into rental assistance contracts with private nonprofit organizations that agree to provide supportive services to homeless families.

Proposed Action: The Department proposes the addition of this provision in 2013. This provision will allow local governments to dedicate rental assistance resources to provide permanent supportive housing for homeless families at no additional cost.

Sec. 223. MINIMUM RENTS AND FLAT RENTS:

(a) Section 3(a) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)) is amended --

(1) in paragraph (2)(B)(i) --

(A) in the matter preceding subclause (I) --

(i) by striking "Except as otherwise provided under this clause, each" and inserting "Each";

(ii) by inserting after "which shall" the following: "not be lower than 80 percent of the applicable fair market rental established under section 8(c) of this Act and which shall";

(B) by striking the undesignated matter following subclause (II) and inserting the following: "Public housing agencies must comply by September 30, 2013, with the requirement of this clause, except that if a new flat rental amount for a dwelling unit will increase a family's existing rental payment by more than 35 percent, the new flat rental amount shall be phased in as necessary to ensure that the family's existing rental payment does not increase by more than 35 percent annually. The preceding sentence shall not be construed to require establishment of rental amounts equal to 80 percent of the fair market rental in years when the fair market rental falls from the prior year.";

(2) in paragraph (3)(A) --

(A) by striking "not more than \$50" and inserting "\$75";

(B) in clause (i) by striking ", which shall be determined by the agency,"; and

(C) in clause (ii) by striking ", which amount shall be determined by the Secretary".

(b) Section 202(c)(3) of the Housing Act of 1959 (12 U.S.C. 1701q(c)(3)), Section 811(d)(3) of the Cranston Gonzalez National Affordable Housing Act (42 U.S.C 8013(d)(3)), and Section 236(f)(2) of the National Housing Act (12 U.S.C. 1715z-1(f)(2)) are each amended --

(1) at the end of subparagraph (B), by striking "or";

(2) at the end of subparagraph (C), by inserting ", or" or "; or", as appropriate; and

(3) after subparagraph (C), by adding the following new subparagraph:

"(D) A minimum monthly rental amount (which shall include any amount allowed for utilities) of \$75.

"(i) Exemption for financial hardship.-- Subject to clause (ii), the Secretary shall immediately grant a request for an exemption from application of the minimum monthly rental amount under this subparagraph to any family unable to pay such amount because of financial hardship, which shall include situations in which --

"(I) the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program, including a family that includes a member who is an alien lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996;

"(II) the family would be evicted as a result of the imposition of the minimum rent requirement under subparagraph (D);"

"(III) the income of the family has decreased because of changed circumstance, including loss of employment;

"(IV) a death in the family has occurred; and

"(V) other circumstances result in financial hardship, as may be determined by the Secretary.

"(ii) Waiting period.-- If a resident requests a financial hardship exemption and the Secretary reasonably determines the hardship to be of a temporary nature, an exemption shall not be granted during the 90-day period beginning upon the making of a request for the exemption. A resident may not be evicted during such 90-day period for nonpayment of rent. In such a case, if the resident thereafter demonstrates that the financial hardship is of a long-term basis, the Secretary shall retroactively exempt the resident from the applicability of the minimum rent requirement for such 90-day period."

(c) Section 101(d) of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s(d)) is amended by striking "30 per centum of the tenant's adjusted income" and inserting "the tenant's rental charges".

(d) Section 101(e) of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s(e)) is amended by --

(1) inserting the following new paragraph (2):

"(2) The Secretary, by regulation shall establish a minimum monthly rent payable by residents of units assisted by the Rent Supplement program that, to the extent practicable, shall be consistent with other rental assistance programs of the Department."; and

(2) by redesignating the remaining paragraphs accordingly.

Explanation of this Section: This provision: (1) requires PHAs to set flat rents at levels no lower than 80 percent of the fair market rent, except that PHAs will have to phase-in flat rent increases as necessary to ensure that a family's existing rental payment does not increase by more than 35 percent ; and (2) establishes a minimum rent of \$75 per month with a hardship exemption across HUD rental assistance programs, including Public Housing, Tenant-Based Rental Assistance, and project-based rental programs.

Proposed Action: The Department proposes the addition of this provision in 2013. Both policies reduce Federal costs while protecting against hardship and will not reduce the number of families served.

Sec. 224. Notwithstanding any provision of the United States Housing Act of 1937 concerning the determination of tenant rent obligations, and of section 23 of such Act (42 U.S.C. 1437u) concerning deposits to escrow accounts, the Secretary may, during the 5-year period beginning on the date of enactment of this Act, allow the use of funds made available by the Secretary to public housing agencies to carry out rent policy demonstrations involving a limited number of families assisted under the 1937 Act, for the purpose of determining the effectiveness of different rent policies in encouraging families to obtain employment, increase their incomes, and achieve economic self-sufficiency, while reducing administrative burdens and maintaining housing stability. Such demonstrations shall include public housing agencies of various sizes, and may include providing income disregards, family self-sufficiency accounts, and policies under which families pay rent in amounts different from 30 percent of their adjusted income. The Secretary shall publish a report regarding the results and effectiveness of any demonstrations conducted under the authority of this section.

Explanation of this Section: This provision helps the Department conduct rent policy demonstrations to determine the effectiveness of different rental policies and how the effect on residents on employment opportunities, incomes, and achievement of economic self-sufficiency, while reducing administrative burdens and maintaining housing stability.

Proposed Action: The Department proposes the addition of this provision in 2013. This provision will assist the Department in developing effective policies that encourage employment and increase earned income among assisted families.

Sec. 225. INSPECTIONS.

(a) Section 8(o)(8) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(8)) is amended --

(1) by redesignating subparagraph (E) as subparagraph (G); and

(2) by striking subparagraph (D) and inserting the following new subparagraphs:

"(D) BIENNIAL INSPECTIONS.

(i) REQUIREMENT. Each public housing agency providing assistance under this subsection (or other entity, as provided in paragraph (11)) shall, for each assisted dwelling unit, make inspections not less often than biennially during the term of the housing assistance payments contract for the unit to determine whether the unit is maintained in accordance with the requirements under subparagraph (A).

"(ii) USE OF ALTERNATIVE INSPECTION METHOD. The requirements under clause (i) may be complied with by use of inspections that qualify as an alternative inspection method pursuant to subparagraph (E).

"(iii) RECORDS. The public housing agency (or other entity) shall retain the records of the inspection for a reasonable time and shall make the records available upon request to the Secretary, the Inspector General for the Department of Housing and Urban Development, and any auditor conducting an audit under section 5(h) of this Act.

"(E) ALTERNATIVE INSPECTION METHOD. An inspection of a property shall qualify as an alternative inspection method for purposes of this subparagraph if –

"(i) the inspection was conducted pursuant to requirements under a Federal, State, or local housing program (including the Home investment partnership program under title II of the Cranston-Gonzalez National Affordable Housing Act and the low-income housing tax credit program under section 42 of the Internal Revenue Code of 1986); and

"(ii) pursuant to such inspection, the property was determined to meet the standards or requirements regarding housing quality or safety applicable to properties assisted under such program, and, if a non-Federal standard or requirement was used, the public housing agency has certified to the Secretary that such standard or requirement provides the same (or greater) protection to occupants of dwelling units meeting such standard or requirement as would the housing quality standards under subparagraph (B).

"(F) INTERIM INSPECTIONS. Upon notification to the public housing agency, by a family (on whose behalf tenant-based rental assistance is provided under this subsection) or by a government official, that the dwelling unit for which such assistance is provided does not comply with the housing quality standards under subparagraph (B), the public housing agency shall inspect the dwelling unit --

"(i) in the case of any condition that is life-threatening, within 24 hours after the agency's receipt of such notification, and

"(ii) in the case of any condition that is not life-threatening, within 15 days after the agency's receipt of such notification."

(b) EFFECTIVE DATE. The amendments in subsection (a) shall take effect upon such date as the Secretary determines, in the Secretary's sole discretion, through the Secretary's publication of such date in the Federal Register, as part of regulations promulgated, or a notice issued, by the Secretary to implement such amendments.

Explanation of this Section: This provision changes the requirement for mandatory inspection of units from on to every two years. In addition, PHAs will be able to satisfy inspections requirements through alternative standards, as long as they are established by other Federal housing programs.

Proposed Action: The Department proposes the addition of this provision in 2013. This provision will reduce administrative burdens for PHAs and allows PHAs to focus limited resources on higher-risk units.

Sec. 226. Notwithstanding any other provision of the United States Housing Act of 1937 (42 U.S.C. 1437f et seq.) and any provision in this Act under the headings "Public Housing Operating Fund", "Public Housing Capital Fund", "Tenant-Based Rental Assistance", and "General Provisions, Department of Housing and Urban Development" (except for provisions establishing the amount of funding made available), of the funds provided by this Act under the headings "Public Housing Operating Fund" and "Public Housing Capital Fund", and of the administrative fees in this Act under the heading "Tenant-Based Rental Assistance", a percentage of such funds and fees (which percentage the Secretary shall establish by notice published in the Federal Register) may be set aside and used by a public housing agency for the Consolidated Opportunities for Resident Enrichment (CORE) Flexibility program, in accordance with its annual public housing agency plan, which shall include such CORE information as requested by the Secretary: Provided, That a public housing agency shall use such set-aside funds and fees to provide flexibility for supportive services activities for families that receive assistance under either section 8(o) or 9 of the United States Housing Act of 1937 (42 U.S.C. 1437f(o) or 42 U.S.C. 1437g), including activities such as service coordination, case management, direct services, services to keep the elderly or persons with disabilities successfully housed, and other activities that promote positive resident outcomes related to education, health, safety, economic security and self-sufficiency, and quality of life: Provided further, That funds and fees may be set aside pursuant to this section for a period of up to two years, after which any unexpended funds shall be used only for the original purposes for which such funds and fees were made available: Provided further, That the Secretary shall develop and publish, in the Federal Register, a notice regarding the use of such set-aside funds and fees, in which the Secretary shall provide program guidelines that include (but are not limited to) eligibility threshold, eligible activities, reporting and accountability, and other matters as determined by the Secretary.

Explanation of this Section: This provision provides PHAs the flexibility to use a percent, to be determined by the Secretary, of their Public Housing and Tenant-Based Rental Assistance resources for a broad range of purposes, including, but not limited to, service coordination, case management, and some direct services to assist residents towards self-sufficiency.

Proposed Action: The Department proposes the addition of this provision in 2013. This provision will provide PHAs with much-needed flexibility so that they can use housing as a platform for improving the quality of life for their Public Housing and Section 8 Housing Choice Voucher families.

Sec. 227. Subsection (d) of section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13a) is amended to read as follows:

"(d) Guarantee fee. The Secretary shall establish and collect, at the time of issuance of the guarantee, a fee for the guarantee of loans under this section, in an amount not exceeding 3 percent of the principal obligation of the loan. The Secretary may also establish and collect annual premium payments in an amount not exceeding 1 percent of the remaining guaranteed balance (excluding the portion of the remaining balance attributable to the fee collected at the time of issuance of the guarantee). The Secretary shall establish the amount of the fees and premiums by publishing a notice in the Federal Register. The Secretary shall deposit any fees and premiums collected under this subsection in the Indian Housing Loan Guarantee Fund established under subsection (i)."

Explanation of this Section: This provision allows the Department to change the fee structure for Native American borrowers under the Indian Housing Loan Guarantee Program to collect fees to three percent upfront and one percent annually. This increase in fees will allow for an increase in loans under this program.

Proposed Action: The Department proposes the addition of this provision in 2013. Due to the massive growth of this program over the last fifteen years, this fee increase will allow the Department to generate the additional subsidy necessary to guarantee more loans.

Sec. 228. Notwithstanding any other provision of the United States Housing Act of 1937 (42 U.S.C. 1437f et seq.), any amounts made available under this title under the headings "Public Housing Capital Fund" and "Public Housing Operating Fund" and allocated to a public housing agency for activities under sections 9(d)(1) and 9(e)(1) of the Act (42 U.S.C. 1437g(d)(1) and 42 U.S.C.

1437q(e)(1) may be used by such agency for any eligible activities under sections 9(d)(1) and 9(e)(1), in addition to the other purposes for which the amounts may be used under such headings: Provided, That an activity funded pursuant to this section shall be subject to the requirements otherwise governing activities under sections 9(d)(1) or 9(e)(1), as applicable.

Explanation of this Section: This provision provides all PHAs with full fungibility of their operating and capital funds.

Proposed Action: The Department proposes the addition of this provision in 2013. This additional flexibility for PHAs is the first step towards the proposed full consolidation of the Operating Fund and Capital Fund programs, which will complete the transition to asset management, simplify the program, and reduce administrative burden on HUD and PHAs.

Sec. 229. GINNIE MAE SECURITIZATION.

(a) Paragraph (8) of section 542(b) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-22(b)) is amended in its title by deleting "Prohibition on" and by revising the text of paragraph (8) to read as follows:

"The Government National Mortgage Association shall not securitize any multifamily loans insured or reinsured under this subsection, except as provided herein. The Government National Mortgage Association may, at the discretion of the Secretary, securitize any multifamily loan, provided that --

"(A) the Federal Housing Administration provides mortgage insurance based on the unpaid principal balance of the loan, as shall be described in the Risk Share Agreement

"(B) the Federal Housing Administration shall not require an assignment fee for mortgage insurance claims related to the securitized mortgages and

"(C) any successors and assigns of the risk share partner (including the holders of credit instruments issued under a trust mortgage or deed of trust pursuant to which such holders act by and through a trustee therein named) shall not assume any obligation under the risk-sharing agreement and may assign any defaulted loan to the Federal Housing Administration in exchange for payment of the mortgage insurance claim.

"The risk-sharing agreement must provide for reimbursement to the Secretary by the risk share partner(s) for either all or a portion of the losses incurred on the loans insured."

(b) Paragraph (6) of section 542(c) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-22(c)) is amended in its title by deleting "Prohibition on" and by revising the text of paragraph (6) to read as follows:

"The Government National Mortgage Association may, at the discretion of the Secretary, securitize any multifamily loan insured under this subsection, provided that --

"(A) the Federal Housing Administration provides mortgage insurance based on the unpaid principal balance of the loan, as shall be described by regulation,

"(B) the Federal Housing Administration shall not require an assignment fee for mortgage insurance claims related to the securitized mortgages, and

"(C) any successors and assigns of the risk share partner (including the holders of credit instruments issued under a trust mortgage or deed of trust pursuant to which such holders act by and through a trustee therein named) shall not assume any obligation under the risk-sharing agreement and may assign any defaulted loan to the Federal Housing Administration in exchange for payment of the mortgage insurance claim.

"The risk-sharing agreement must provide for reimbursement to the Secretary by the risk share partner(s) for either all or a portion of the losses incurred on the loans insured."

(c) Clause (ii) of the first sentence of section 306(g)(1) of the National Housing Act (12 U.S.C. 1721(g)(1)) is amended by striking the semi-colon and inserting a comma, and by inserting before the period at the end the following: ", or which are insured under subsection (b) or (c) of section 542 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-22), subject to the terms of paragraph (8) and (6), respectively, of such subsection".

Explanation of this Section: Sections 542(b)(8) and (c)(6) as enacted (12 U.S.C. 1715z-22(b)(8) and (c)(6)) prevent securitization of risk-sharing loans through Ginnie Mae-guaranteed securities. This is because, if a risk-sharing loan is securitized and the issuer defaults, Ginnie Mae, as assignee of the loan, would become liable for the risk-sharing obligations of the issuer, as would any other issuer to which Ginnie Mae might attempt to transfer the loan.

This proposal amends Sections 542(b) and (c) to remove the prohibition against securitization of these loans through Ginnie Mae, so long as the scope of insurance on the loans falls within the parameters of amended Section 542(b) and (c). Specifically, while the

loans may be the subject of a risk sharing agreement between the originating mortgagee and FHA, successors and assignees of the originating mortgagee shall not be liable for the obligations under the risk sharing agreement. Upon assignment of a loan to FHA by an assignee/successor, FHA shall pay an insurance claim based on the unpaid principal balance. In addition, FHA shall not require an assignment fee for any loan insured under these subsections if the loan is securitized through Ginnie Mae.

The related conforming amendment includes language in Ginnie Mae's Charter Act to authorize securitization of loans insured under Subsections 542(b) and (c) as amended.

These amendments will allow Ginnie Mae to provide secondary market liquidity to support a broader range of housing financed through FHA risk-sharing programs, including the small (5-49 units) affordable multifamily developments, and improve existing financing options.

Proposed Action: The Department proposes the addition of this provision in 2013.

Sec. 230. *The fourth proviso under the "Rental Assistance Demonstration" heading of the Department of Housing and Urban Development Appropriations Act, 2012 is amended by striking "or section 8(e)(2)".*

Explanation of this Section: This provision exempts Moderate Rehabilitation (MR) properties from the 60,000 unit cap on properties that can convert under the enacted Rental Assistance Demonstration (RAD). The 60,000 unit cap would apply to Public Housing conversions alone, while the number of MR conversions (at existing subsidy levels) would not be constrained.

Proposed Action: The Department proposes the addition of this provision in 2013 to enable a demonstration and complete evaluation of Public Housing conversions while also preserving as many viable MR properties as possible

Sec. 231.

(a) Subsection (b) of section 225 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12755) is amended by inserting at the end the following sentence: "Such 30 day waiting period is not required if the grounds for the termination or refusal to renew involve a direct threat to the safety of the tenants or employees of the housing, or an imminent and serious threat to the property (and the termination or refusal to renew is in accordance with the requirements of State or local law)."

(b) Section 231 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12771) is amended --

(1) in subsection (b) by striking "make such funds available by direct reallocation" and all that follows through "were recaptured" and inserting "reallocate the funds by formula in accordance with section 217(d) of this Act (42 U.S.C. 12747(d))"; and

(2) by striking subsection (c).

Explanation of this Section: Both provisions make changes to the HOME Investment Partnership Program. Provision (a) facilitates eviction of HOME rental unit tenants who pose a direct threat to tenants or employees of the housing or are an imminent, serious threat to the property. Provision (b) allows recaptured Community Housing Development Organization funds to be reallocated by formula as regular HOME funds.

Proposed Action: The Department proposes the addition of this provision in 2013 to improve the HOME program.

Sec. 232.

(a) Section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a) is amended --

(1) in paragraph (2), by designating the first sentence as subparagraph (A), the second sentence as subparagraph (B), and the remaining sentences as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph (C):

"(C) The term extremely low-income families means very low-income families whose incomes do not exceed the higher of --

"(i) the poverty guidelines updated periodically by the Department of Health and Human Services under the authority of section 673(2) of the Community Services Block Grant Act applicable to a family of the size involved (except that this clause shall not apply in the case of public housing agencies located in Puerto Rico or any other territory or possession of the United States); or

"(ii) 30 percent of the median family income for the area, as determined by the Secretary, with adjustments for smaller and larger families (except that the Secretary may establish income ceilings higher or lower than 30 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low

family incomes."; and

(2) in paragraph 5(A), by revising subparagraph (ii) to read as follows:

"(ii) Health and medical expenses. -- The amount, if any, by which 10 percent of annual family income is exceeded by the sum of

"(I) in the case of any elderly or disabled family, any unreimbursed health and medical care expenses; and

"(II) any unreimbursed reasonable attendant care and auxiliary apparatus expenses for each handicapped member of the family, to the extent necessary to enable any member of such family to be employed."

(b) Section 16 of the United States Housing Act of 1937 (42 U.S.C. 1437n) is amended --

(1) in subsection (a)(2)(A),

(2) in subsection (b)(1), and

(3) in subsection (c)(3), by striking "families whose incomes" and all that follows through "low family incomes" and inserting "extremely low-income families".

Explanation of this Section: This provision : (1) broadens the extremely-low income targeting requirements by applying it to families with the higher of 30 percent of Area Median Income or Federal poverty level; and (2) increases the threshold for deducting unreimbursed medical expenses from 3 percent to 10 percent of family income.

Proposed Action: The Department proposes the addition of this provision in 2013 to better target rental assistance to the working poor, simplify administration of the medical expenses deduction, and reduce Federal costs.

Sec. 233. Notwithstanding Section 24(o) of the United States Housing Act of 1937 (42 U.S.C. 1437v(o)), amounts made available in prior appropriations Acts under the heading "Revitalization of Severely Distressed Public Housing (HOPE VI)" or under the heading "Choice Neighborhoods Initiative" may continue to be provided as assistance pursuant to such Section 24.

Explanation of this Section: The provision allows HUD to continue to obligate and expend prior-year HOPE VI and Choice Neighborhood funds that otherwise would sunset on September 30, 2012.

Proposed Action: The Department proposes the addition of this provision in 2013 to ensure the continued availability of prior-year HOPE VI and Choice Neighborhoods funding.

Sec. 234. PROJECT RENTAL ASSISTANCE AUTHORITY. Section 202(f)(2) of the Housing Act of 1959 (12 U.S.C. 1701q(f)(2)) is amended –

(a) in paragraph (A) --

(1) by striking the matter before clause (i) and inserting the following: "The Secretary shall establish procedures to delegate review and processing of projects to a State or local housing agency that--"; and

(2) in clause (iii), by striking "capital advance" and inserting "funding", and by replacing the comma with a semi-colon;

(b) in subparagraph (B), by striking "capital advances" and inserting "funding under this section";

(c) in subparagraph (C), by striking the first sentence;

(d) by redesignating subparagraph (D) as subparagraph (E), and in the redesignated subparagraph (E) –

(1) by striking "a capital advance" and inserting "funding under this section"; and

(2) by striking "capital advance amounts or project rental assistance" and inserting "funding under this section"; and

(e) by inserting the following new subparagraph after subparagraph (C):

"(D) Assistance under subsection (c)(2) may be provided for projects for which the applicable State agency responsible for health and human services programs, and the applicable State agency designated to administer or supervise the administration of

the State plan for medical assistance under title XIX of the Social Security Act, have entered into such agreements as the Secretary considers appropriate--

"(i) to identify the target populations to be served by the project;

"(ii) to set forth methods for outreach and referral; and

"(iii) to make available appropriate services for tenants of the project."

Explanation of this Section: This provision would expand the existing Delegated Processing Agency authority to facilitate provision of Section 202 operating assistance-only contracts to fund supportive housing units aligned with State health care priorities. Funded projects must be fully leveraged with other capital resources and only require Section 202 funds for operating assistance. These requested changes will allow for improved coordination and more cost-effective administration of available HUD rental assistance funds with other State and Federal assistance. This proposed authority will draw on lessons learned from the new Section 811 Project Rental Assistance demonstration authorized by the Frank Melville Supportive Housing Investment Act of 2010.

Proposed Action: The Department proposes enactment of this provision.

Sec. 235. The proviso under the "Community Development Fund" heading in Public Laws 109-148, 109-234, 110-252, and 110-329 which requires the Secretary to establish procedures to prevent duplication of benefits and to report to the Committees on Appropriations on all steps to prevent fraud and abuse is amended by striking "quarterly" and inserting "annually".

Explanation of this Section: This provision changes the frequency of submitting reports to the Committees on Appropriations on establishing procedures to prevent duplication of benefits under the Community Development Fund for specific disaster supplemental from quarterly to annually.

Proposed Action: The Department proposes the addition of this provision in 2013. Quarterly reports demonstrate very little change in progress and the reduced frequency of reports will be more meaningful and useful for the Committees.