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January 26, 2010

The Honorable Christopher J. Dodd
Chairman
The Honorable Richard C. Shelby
Ranking Minority Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Barney Frank
Chairman
The Honorable Spencer Bachus
Ranking Minority Member
Committee on Financial Services
House of Representatives

Subject: *Department of Housing and Urban Development: HOPE for Homeowners Program; Statutory Transfer of Program Authority to HUD and Conforming Amendments To Adopt Recently Enacted Statutory Changes*

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 “HOPE for Homeowners Program; Statutory Transfer of Program Authority to HUD and Conforming Amendments To Adopt Recently Enacted Statutory Changes” (RIN: 2502-AI76). We received the rule on January 12, 2010. It was published in the *Federal Register* as an interim rule on January 12, 2010, with a stated effective date of March 15, 2010. 75 Fed. Reg. 1686.

The interim rule implements changes made to the HOPE for Homeowners program by the Helping Families Save Their Homes Act of 2009.¹ These changes include transferring responsibility for the program from the Board of Directors of the HOPE for Homeowners Program to HUD, establishing an exemption for a mortgagor who has inherited property, and revising required mortgagor representations, among other changes. This rule also requires borrowers’ debt-to-income ratio to be calculated based on mortgages existing at the time of application to the program. In

¹ Pub. L. No. 111-22, div. A, 123 Stat. 1632 (May 20, 2009).

addition, the rule makes changes to the loan-to-value thresholds, the allowable total monthly payments, the appreciation sharing and upfront payment provisions, the upfront and annual mortgage insurance premium requirements, and the property preservation exception to subordinate lien restrictions. Lastly, the rule removes the previously codified allowable fees and closing costs.

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
"HOPE FOR HOMEOWNERS PROGRAM;
STATUTORY TRANSFER OF PROGRAM AUTHORITY TO
HUD AND CONFORMING AMENDMENTS TO
ADOPT RECENTLY ENACTED STATUTORY CHANGES"
(RIN: 2502-AI76)

(i) Cost-benefit analysis

According to the Department of Housing and Urban Development (HUD), it did not prepare an analysis of the costs and benefits of this interim rule. HUD did prepare an Economic Analysis for this rule, which is described below.

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

HUD determined that this 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 this interim rule will not impose any federal mandate on any state, local, or tribal government, or on the private sector, within the meaning of the Act.

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

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

According to HUD, the pressing need to address the housing crisis and the temporary nature of the HOPE for Homeowners (H4H) program demonstrate that the intent of Congress was for the benefits of the H4H program be made promptly available to the public. Therefore, HUD concluded that a delay in the effectiveness of this rule for the prior solicitation of public comment would be contrary to the public interest. Further, HUD determined that a delay in the effectiveness of this rule was unnecessary because HUD does not have discretion to revise the statutory language implemented by the rule in response to comments submitted by the public.

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

HUD determined that this interim rule contains information collections requirements under the Act. These requirements have been approved by the Office of Management and Budget (OMB) and assigned OMB Control Number 2502-0579.

Statutory authorization for the rule

HUD promulgated this rule under the authority of section 1701z-22 of title 12 and section 3535 of title 42, United States Code.

National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321–4370f

HUD made a Finding of No Significant Impact with respect to the environment in accordance with HUD regulations implementing the Act.

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

HUD determined that this interim rule is economically significant and conducted an Economic Analysis. HUD found that the economic impacts from the changes in this interim rule stem largely from increased participation in the H4H program. HUD estimates that, with 10,000 participants annually, the H4H program will generate \$273 million in net benefits to society and that H4H participation could be as high as 137,500 households over the life of the program, with commensurately higher benefits.

Executive Order No. 13,132 (Federalism)

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