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Information On
Federal Disaster Relief
Programs B-178415

Multiagency

*BY THE COMPTROLLER GENERAL
OF THE UNITED STATES*

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C o n t e n t s

CHAPTER		<u>Page</u>
1	INTRODUCTION	1
2	MORE UNIFORMITY MAY BE NEEDED IN FEDERAL DISASTER ASSISTANCE PROGRAMS	2
	Differences in loan law	2
	Differences in administrative treatment of disaster victims	4
	Potential difference in funding highway repairs	6
	Differences in administering disaster relief for repair of public facilities	7
	Matters for consideration of congressional committees	11
3	NEED FOR IMPROVED COORDINATION OF FEDERAL DISASTER ASSISTANCE PROGRAMS	12
	Funding of repairs by SBA, HUD, and the Corps of Engineers	12
	Conflict between HUD urban renewal projects and SBA disaster loans	14
4	ADMINISTRATION OF DISASTER-RELATED URBAN RENEWAL	16
	Payment of preflood value for urban renewal projects in Pennsylvania	16
	Relocation benefits based on loss rather than on increased cost to relocate	19
	Matters for consideration of congressional committees	21
APPENDIX		
I	DISASTERS AND FEDERAL PROGRAMS INCLUDED IN GAO REVIEWS	23
II	ACTIVITIES OF FEDERAL AGENCIES IN DISASTER ASSISTANCE	24

APPENDIX

Page

III	SIGNIFICANT DIFFERENCES IN BENEFITS AVAILABLE TO VICTIMS OF DISASTERS OCCURRING DURING FISCAL YEARS 1970-73	28
IV	EXAMPLES OF UNNECESSARY COSTS INCURRED WHEN REPAIRED PROPERTIES ARE ACQUIRED FOR DEMOLITION IN URBAN RENEWAL	30
V	LETTER DATED SEPTEMBER 25, 1973, FROM THE GENERAL COUNSEL, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT	31

ABBREVIATIONS

FDA	Federal Disaster Assistance Administration
FHA	Farmers Home Administration
FHWA	Federal Highway Administration
GAO	General Accounting Office
HEW	Department of Health, Education, and Welfare
HUD	Department of Housing and Urban Development
SBA	Small Business Administration

CHAPTER 1

INTRODUCTION

Our reviews of disaster relief programs started with a review of disasters in California, Texas, and Puerto Rico. Tropical Storm Agnes generated substantial congressional interest and we combined the results of our earlier review with the reviews of Tropical Storm Agnes and the Rapid City, South Dakota, flood (See apps I and II.)

The Subcommittee on Investigation and Review, House Committee on Public Works, is studying the disaster relief programs of various Federal agencies and requested that we obtain information it could use. The Senate Committee on Banking, Housing and Urban Affairs held hearings on proposed disaster relief legislation in June 1973, and the Senate Committee on Public Works planned to hold hearings in September 1973.

We are sending this report to the Subcommittee for use in its studies and to the Senate Committees for use, in considering disaster relief legislation. The report is also being sent to the Senate and House Committees on Government Operations for their information.

Our reviews were directed toward evaluating the administration of disaster relief programs for aiding individuals, businesses, and State and local governments during the recovery period. Included in our reviews were programs to (1) provide loans to individuals and businesses, (2) provide temporary housing to victims whose homes were not habitable after the disaster, (3) reimburse State and local government costs for repairing public facilities, and (4) finance disaster-related urban renewal projects.

CHAPTER 2

MORE UNIFORMITY MAY BE NEEDED

IN FEDERAL DISASTER ASSISTANCE PROGRAMS

DIFFERENCES IN LOAN LAW

Because of legislative differences between Small Business Administration (SBA) and Farmers Home Administration (FHA) disaster loan programs (see app. III), victims sustaining similar damages from the same disaster received different amounts of assistance depending on whether they applied to SBA or FHA.

The following differences between SBA and FIAA disaster loan programs were due to enactment of Public Law 92-385 on August 16, 1972

- FHA could refinance existing mortgages if credit was not available at reasonable rates, but SBA could refinance existing mortgages without regard to the availability of credit elsewhere.
- FHA refinancing assistance for farm and nonfarm property owners could not exceed the amount of physical loss. SBA refinancing assistance was similarly limited for business concerns but not for homeowners, who were eligible for refinancing in excess of the loss sustained.
- If a borrower misused SBA loan funds, he would be civilly liable for one and a half times the amount of the loan. FHA had no such penalty.
- The Secretary of Agriculture could defer principal and/or interest payment for the first 3 years of the term of any loan. The SBA Administrator could suspend principal and interest payment for up to 5 years if the borrower was a homeowner or small businessman and if the Administrator determined severe financial hardship existed. He could also suspend principal payments for the life of a borrower who was retired, disabled, or in similar hardship circumstances if the

borrower relied on survivor, disability, or retirement benefits.

- FHA could make emergency housing loans but not loans for personal property losses to victims who lived in rural areas and who were not farmers. SBA could make loans to such victims for both real and personal property losses. Some disaster victims applied to FHA for loans to finance real property losses and to SBA for loans to finance personal property losses. Obviously, this practice inconveniences the borrower and unnecessarily increases the administrative workload of the Federal Government. Also, FHA and SBA experienced problems in preventing victims borrowing from both of them from obtaining loan forgiveness from both in excess of the maximum allowed. (This difference had also existed under Public Law 91-606.)
- SBA loan applicants who suffered losses from disasters between January 1 and July 1, 1971, were eligible for loans at 3-percent interest and forgiveness for the first \$2,500 of their loans. FHA loan applicants who suffered losses from the same disasters were eligible for loans at about 5-percent interest and forgiveness of \$2,500 of their loans after the first \$500. For example, an applicant could obtain a \$2,600 loan from SBA and repay only \$100 at 3-percent interest, whereas an FHA borrower obtaining the same size loan would be required to repay \$500 at about 5 percent.
- FHA loan applicants who suffered losses from disasters between June 30 and December 31, 1971, were eligible for forgiveness of the greater amount of (1) 50 percent of the loan principal, not to exceed \$5,000, or (2) the percent that would be forgiven of an SBA loan of the same size. SBA applicants were eligible only for loan forgiveness not to exceed \$2,500.

Public Law 92-385 automatically expired June 30, 1973, and SBA and FHA disaster loan programs are currently operating under Public Law 91-606, enacted December 31, 1970, except for a few provisions authorized by Public Law 93-24, enacted April 20, 1973. Under these laws, FHA is authorized to make loans to eligible disaster victims (farmers, ranchers, and oyster planters) only if the victims cannot obtain sufficient

credit at reasonable rates elsewhere. SBA, however, is authorized to make loans to eligible victims (homeowners, property owners, and business concerns) without regard to the availability of credit elsewhere.

DIFFERENCES IN ADMINISTRATIVE TREATMENT OF DISASTER VICTIMS

Because SBA and FHA interpreted retroactive provisions of the Disaster Relief Act of 1970 (Public Law 91-606) differently, loans with different interest rates and forgiveness provisions were made to victims of disasters occurring between April 1 and December 31, 1970, depending on whether SBA or FHA made the loans.

The Disaster Relief Act of 1969 (Public Law 91-79) authorized loans at an interest rate not to exceed 3 percent and forgiveness of up to \$1,800 of the loan principal in excess of \$500. The Disaster Relief Act of 1970, enacted December 31, 1970, provided that interest rates on all loans would be the cost of certain U.S. Treasury obligations reduced by not more than 2 percent but not to exceed 6 percent. Sections 231 and 232 of the act, which were retroactive to April 1, 1970, allowed forgiveness of up to \$2,500 of the loan principal in excess of \$500.

SBA allowed all borrowers who suffered from disasters between April 1 and December 31, 1970, the choice of obtaining a loan under either the 1969 or the 1970 act. An SBA borrower could obtain a loan with an interest rate of 3 percent and up to \$1,800 forgiveness or a loan with an interest rate of about 5 percent and forgiveness of up to \$2,500.

FHA, on the other hand, provided the most favorable benefits of each act to all borrowers whose loans were approved between April 1 and December 31, 1970. Thus, the FHA borrower received a loan at 3-percent interest and forgiveness of up to \$2,500.

Furthermore, SBA used the date the disaster occurred in determining whether to apply the retroactive provisions of the act, whereas FHA used the date the loan was approved

Neither SBA's nor FHA's actions were improper. We believe, however, for equitable treatment of disaster victims both agencies should have been consistent in their

interpretations. Although we brought this matter to the attention of SBA and FHA officials in 1972, the agencies in 1973 again differed in the assistance provided to certain disaster victims, as discussed below.

The SBA Administrator and the Secretary of Agriculture are authorized to declare areas eligible for disaster assistance when the extent of damage does not warrant a Presidential declaration. Many victims have received assistance under such agency declarations.

Following Tropical Storm Agnes in June 1972, Public Law 92-385 was enacted on August 16, 1972, which provided for forgiveness of the first \$5,000 of SBA and FHA disaster loans and a 1-percent interest rate. The \$5,000 forgiveness and the consequent Federal interest rate subsidy of 4 to 5 percent for each victim assisted made SBA and FHA disaster loan programs much more costly than they had been before Agnes.

As a result, on December 27, 1972, the Secretary of Agriculture advised FHA that no more loan applications would be accepted for any areas he had previously declared eligible for disaster assistance. This prevented thousands of victims from receiving any financial assistance even though FHA had expressly instructed many of them before December 27 to apply for assistance after that date.

As noted in Senate report 93-85, the Department of Agriculture estimated as of January 31, 1973, that 140,000 applications totaling \$700 million would be submitted by victims in counties which the Secretary had designated previously as disaster areas or which had requested such designation, if the Department elected to accept such applications.

From December 27, 1972, to April 20, 1973, the Secretary of Agriculture did not declare any areas eligible for disaster assistance, although several hundred counties had requests for such declarations pending at FHA. Also, FHA did not make any loans to victims in areas the President declared eligible for disaster assistance during this period. SBA, however, was

making loans for 1-percent interest and \$5,000 forgiveness to eligible victims ¹

Because of FHA's curtailment of disaster loans, Public Law 93-24 was enacted, eliminating forgiveness and increasing the interest rate on SBA and FHA loans to 5 percent. The legislation also included a retroactive provision which allowed victims of disaster areas so designated by the Secretary between January 1 and December 27, 1972, who had been denied financial assistance because of the curtailment of the FHA program to apply for loans with \$5,000 forgiveness and 1-percent interest if such applications were submitted within 18 days of legislation enactment.

After enactment of Public Law 93-24, the Secretary of Agriculture declared about 400 counties, which had sustained disaster damages but had not been so designated because of the FHA curtailment, eligible for disaster assistance. Because these counties were not declared eligible until then, many disaster victims received FHA loans at 5-percent interest and no forgiveness when, under the legislation in effect at the time of the disasters, they could have received loans with \$5,000 forgiveness and 1-percent interest. Also, victims of the same disaster received different benefits depending on whether they were eligible for FHA or SBA assistance. For example, for victims of the Mississippi and Missouri River floods in early 1973, SBA made loans at 1-percent interest and \$5,000 forgiveness, whereas FHA made loans at 5-percent interest and no forgiveness.

POTENTIAL DIFFERENCE IN FUNDING HIGHWAY REPAIRS

The Federal Highway Administration (FHWA) assists in financing repairs to disaster-damaged highways and bridges which

¹Because of congressional concern over the inequity of this practice, SBA, on April 10, 1973, agreed to accept loan applications from farmers and other residents of rural areas for damages sustained to homes and personal property as a result of disasters in areas the President declared eligible after December 27, 1972. SBA, however, could not provide any assistance for damages to farm buildings, related structures, and equipment or for crop losses sustained by farmers in such disasters.

are part of the Federal-aid system. The Office of Emergency Preparedness, under the Disaster Relief Act of 1970, provided such assistance for local roads and bridges. Effective July 1, 1973, the Office's responsibilities for managing and coordinating Federal disaster assistance and related support and field staff were transferred to the then-created Federal Disaster Assistance Administration (FDAA) in the Department of Housing and Urban Development (HUD).

FHWA can authorize reimbursement of 100 percent of the approved project cost when in the public interest. FHWA officials told us on August 1, 1973, that FHWA's practice over the past 3 years has been to reimburse 100 percent of the approved project cost. FDAA also reimburses 100 percent of the approved project cost for repairs to local roads and bridges.

The proposed Disaster Preparedness and Assistance Act of 1973 (S. 1840) would provide for 75-percent reimbursement by FDAA on nonsystem roads. Thus, a difference between FHWA and FDAA in funding repairs to disaster-damaged roads could arise.

DIFFERENCES IN ADMINISTERING DISASTER RELIEF FOR REPAIR OF PUBLIC FACILITIES

Differences existed in the timeliness and degree of assistance FDAA, FHWA, and the Department of Health, Education, and Welfare (HEW) provided for repairing disaster-damaged public facilities because the administrative policies and practices of these agencies varied.

Federal aid to education legislation (20 U.S.C. 646 and 241-1) authorizes HEW to assist in the repair of disaster-damaged elementary and secondary schools. FDAA, under authority of the Disaster Relief Act of 1970, provides such assistance for institutions of higher learning.

Advances of funds

Both FDAA and HEW advance funds, FHWA does not.

State and local officials in Arizona and California commented on the need for the Federal Government to provide immediate advances of funds. They stated that the lack of

a ready source of funds for immediate repairs essential to preserve life and property causes undue hardship for many communities. At the least, it means temporary diversion of a community's budgeted funds to finance disaster recovery efforts.

When an application is approved, FDAA advances up to 75 percent of approved project costs and HEW advances 75 percent of the assistance provided for repairing or replacing equipment, materials, supplies, textbooks, etc., and for minor repairs to damaged facilities. For permanent replacement of destroyed facilities, HEW advances about 10 percent of project costs when the application is approved and an additional 50 percent when the contract is awarded. FHWA, however, authorizes only progress payments for completed work.

FHWA informed us on August 1, 1973, that it has the legislative authority to advance funds and will do so if needed.

Eligibility of payroll benefits

Fringe payroll benefits--such as social security, retirement, and insurance--of State and local government employees directly involved in disaster recovery work are not reimbursable under FDAA policy. FHWA and HEW, however, recognize such fringe benefits as eligible costs.

Applicability of current codes, specifications, and standards

HEW, FHWA, and FDAA differ in adhering to current codes, specifications, and standards in repairing disaster-damaged public facilities.

HEW legislation specifies that assistance may not exceed the cost of construction to restore or replace school facilities destroyed or damaged as a result of a disaster but does not specify how current codes, specifications and standards are to be applied. In providing assistance to rebuild a high school destroyed by the 1971 California earthquake, HEW limited assistance to the cost of the minimum school facility needed to replace the destroyed school. Although HEW considered current safety and health construction standards, it did not consider current space standards which require more square feet of space per pupil than was required when the school was built.

Section 252(a) of the Disaster Relief Act of 1970 provides that Federal financing of repairs of public facilities by FDAA shall not exceed 100 percent of the net cost of repairing

"* * * any such facility on the basis of the design of such facility as it existed immediately prior to such disaster and in conformity with applicable codes, specifications, and standards."

House report 91-1524 on the act states that the Federal contribution for repairing public facilities should be based on building to current standards rather than on merely replacing space or fixtures.

According to the report, if a 400-pupil school constructed in 1950 was designed under then-existing criteria to provide a certain number of square feet of space per student, the Federal contribution would properly pay for space on the basis of current standards.

Regarding authorizations for repairs of roads and bridges State disaster officials told us FHWA is more likely to accept current codes and specifications than is FDAA. For example, Pennsylvania Department of Transportation officials told us that FHWA and FDAA differed in financing the repair of 530 bridges damaged by Tropical Storm Agnes. About 400 bridges were in the State and local road system and 130 were in the Federal-aid system.

These officials explained that in May 1972 the State issued new guidelines to local officials for designing roads and bridges which were not part of the State highway system. The standards in the guidelines were significantly higher than previous standards and higher than those suggested by the American Association of State Highway Officials.

FDAA, in authorizing repair and reconstruction of the 400 bridges, imposed width standards which, according to Pennsylvania officials, were the same as those of the American Association of State Highway Officials. In contrast, FHWA, according to State officials, agreed to use State standards for the bridges in the Federal-aid system. FHWA officials told us that the State standards were higher than those in the guidelines for local roads and bridges

FDAA informed us that it did not consider the new guidelines for local roads and bridges because, although issued on May 16, 1972, they were not effective until July 1--a week after the disaster

Authorizations of road repairs

Communities must await FHWA approval of applications to repair Federal-aid system roads before they can begin permanent repairs, otherwise they will not be reimbursed for such work. FDAA, however, authorizes permanent repairs of local roads to begin upon completion of damage-assessment surveys and assures communities that eligible repair costs will be reimbursed. FHWA delays may cause higher repair costs because of additional damage to the roads while awaiting permanent repair.

We noted several places in Los Angeles where permanent repairs to Federal-aid system roads damaged by the February 1971 earthquake had not begun as of February 1973. FDAA-funded permanent repairs to damaged local streets were begun in mid-1971 and were expected to be completed by April 1973.

A Los Angeles official informed us that FHWA had authorized only temporary repairs at several locations on Federal-aid system roads. We noted several locations where local roads adjacent to or intersecting Federal-aid system roads had been permanently repaired, whereas the Federal-aid system roads had not been repaired or had been only temporarily repaired.

The Los Angeles official attributed FHWA delays in authorizing permanent repairs to (1) lack of FHWA personnel authorized to make decisions at the local level, (2) stringent and detailed plans and specifications required by FHWA, and (3) approval of applications at the Washington, D C., level.

FHWA informed us on August 1, 1973, that it had changed its procedures on February 28, 1973, and that project applications are now approved in the regional offices rather than in Washington.

MATTERS FOR CONSIDERATION OF
CONGRESSIONAL COMMITTEES

During their hearings on disaster relief legislation, congressional committees may wish to consider the desirability of providing for uniformity between SBA and FHA disaster loan programs and for more permanance and stability in legislative benefits to insure more consistent and equitable treatment of disaster victims.

Also, they may wish to consider whether the problems discussed above could be alleviated if the responsibilities now assigned to FDAA, FHWA, and HEW were assigned to one agency. Senate bill 1840 provides for assigning to one agency (which the administration has indicated will be FDAA) the responsibility for assistance for disaster-damaged public facilities, with one exception. It does not affect FHWA's authority to repair disaster-damaged roads and bridges in the Federal-aid highway system. Consideration could be given to assigning the responsibility for assistance for all disaster-damaged roads and bridges to either FDAA or FHWA.

Further, the committees may wish to consider whether congressional intent regarding the applicability of local codes, specifications, and standards needs to be clarified.

CHAPTER 3

NEED FOR IMPROVED COORDINATION OF FEDERAL DISASTER ASSISTANCE PROGRAMS

Although the Office of Emergency Preparedness was responsible for coordinating overall Federal disaster relief, there was little coordination of several programs involving large Federal expenditures. Limited coordination precluded any assurance that applicants were not receiving financial assistance from each program for the same losses. During discussions with disaster victims and agency officials, we noted that the lack of coordination resulted in confusion, indecision, and potential unnecessary costs for victims and agencies.

FUNDING OF REPAIRS BY SBA, HUD, AND THE CORPS OF ENGINEERS

Section 208(a) of the Disaster Relief Act of 1970 requires the Office of Emergency Preparedness to insure that no person receives financial assistance for a loss for which he has received assistance under another program. (These responsibilities are now assigned to FDAA. See pp. 6 and 7.)

Federal funds totaling \$438 million were provided under three programs for victims of Tropical Storm Agnes in the Wyoming Valley area of Pennsylvania. The three programs provided significant funds for repairs to damaged homes. For example, about 28,000 SBA loans totaling about \$252 million were approved for repairing and/or replacing nonbusiness personal and real property losses¹. About half such loan amounts were forgiven. The victims also received \$8.6 million under the mini-repair program administered by HUD and the Corps of Engineers and \$14.1 million under HUD's Interim Assistance Program. In addition, the State is required to provide \$7 million as its share of the costs under the Interim Assistance Program.

¹SBA statistics do not distinguish between loans for non-business personal property losses and nonbusiness real property losses.

The mini-repair program, initiated by FDAA following Agnes, provides for minimum basic repairs to make a house habitable and thus alleviate the demand for temporary housing. In Wyoming Valley, 2,779 homes were repaired under this program at an average cost of \$3,092. Much of the mini-repair work, such as shown below, consisted of permanent repairs and should have been coordinated with SBA to prevent duplicate funding.

- Repair of all plumbing and replacement of fixtures.
- Repair of electrical systems and replacement of fixtures.
- Repair of heating systems and replacement of furnaces.
- Repair of hot water systems and replacement of hot water heaters
- Repair or replacement of insulation.

The Interim Assistance Program is a cost-sharing program which provides for emergency repairs to homes, repairs to streets, sidewalks, and other public facilities, demolition of unsafe structures, etc. HUD funds two-thirds of the project costs and the State funds one-third. Local redevelopment authorities, subject to HUD approval, are responsible for planning and implementing specific projects. Most of the Interim Assistance Program funds were spent for emergency repairs to homes--removing plaster, wallboard, insulation, and floor covering, repairing and/or replacing doors, windows, roofs, sidings and electrical, plumbing, and heating systems, and repairing other items necessary to make the homes habitable.

Federal efforts to coordinate the SBA loan, mini-repair, and Interim Assistance programs have been limited. The Corps informed SBA of the repairs made in each housing unit under the mini-repair program. SBA, however, in attempting to avoid duplicate funding of repairs, used incomplete work scopes and cost estimates. Because of the resultant problems, SBA soon discontinued its efforts. No effort was made to avoid duplicate funding of repairs under the Interim Assistance Program.

CONFLICT BETWEEN HUD URBAN RENEWAL
PROJECTS AND SBA DISASTER LOANS

HUD reserved \$530 million for disaster-related urban renewal projects because of Tropical Storm Agnes and the Rapid City flood. HUD funds 75 percent of the cost of projects for clearing and redeveloping disaster-stricken communities, and the communities fund 25 percent. HUD told us that Pennsylvania is paying the required local share with proceeds from State bonds issued for that purpose.

Because the Federal Government failed to coordinate more intensive, shorter duration emergency programs with long-term recovery programs, a conflict developed between SBA's disaster loan program and HUD's urban renewal program.

The SBA disaster loan program is a quick-starting program, implemented immediately after a disaster and emphasizing prompt processing of applications and disbursement of funds. The urban renewal program starts slower and lasts longer.

Because of the time needed to plan disaster-related urban renewal projects, such plans are finalized long after substantial amounts of SBA funds have been disbursed to victims for rehabilitating their homes and businesses. Consequently, many properties scheduled for acquisition and demolition under urban renewal had already been repaired when tentative urban renewal plans for Wyoming Valley were publicized.

HUD informed us on August 3, 1973, that it was aware of the problem and that it would minimize acquisition of repaired properties. Final plans for the Wyoming Valley urban renewal projects should be approved shortly. Not until the local redevelopment authorities responsible for implementing the projects acquire the properties will the extent to which repaired properties are being acquired for demolition be known.

Acquiring repaired properties for subsequent demolition would result in unnecessary costs to the Federal Government and sometimes to the property owners, depending on the policy followed in establishing acquisition prices. (See app IV.) HUD officials told us on August 3, 1973, that the extra costs

to the Government may be justified in the light of subsequent benefits to the community once redevelopment is completed.

The various coordination problems noted during our reviews indicate a need for FDAA to more effectively monitor Federal programs. FDAA told us on July 31, 1973, that it is developing new procedures for collecting and analyzing data on assistance provided to disaster victims. Efforts to date include field testing a prototype management information system for registration and counseling, temporary housing, and home, personal, and business loans. This system should improve FDAA's capability to effectively monitor key elements of Federal disaster recovery programs and should reduce the chances of providing duplicate benefits to victims.

CHAPTER 4

ADMINISTRATION OF

DISASTER-RELATED URBAN RENEWAL

PAYMENT OF PREFLOOD VALUE FOR URBAN RENEWAL PROJECTS IN PENNSYLVANIA

HUD has reserved \$400 million for disaster-related urban renewal projects in Pennsylvania and has decided to allow local redevelopment authorities to pay preflood value for flood-damaged properties acquired for these projects. In our opinion, the urban renewal projects are not flood control projects, a prerequisite under State law for the projects to be eligible for payment of preflood value before September 27, 1973. On that date, Pennsylvania's eminent domain code was amended to eliminate the flood control project test for the payment of preflood value for real property acquired through condemnation. This amendment was made applicable to properties damaged by floods of September 1971 and June 1972. While we cannot object as a legal matter, we do question whether the Federal Government should fund the payment of preflood value for property acquired for urban renewal projects.

HUD's policy is to follow State laws, specifically State eminent domain codes, when establishing fair market value for property to be acquired for urban renewal projects. Victims have always received postflood value for properties acquired for disaster-related urban renewal projects. Pennsylvania's eminent domain code, however, provided for paying preflood value for properties acquired through condemnation for the construction of any flood control project.

Obviously, the key question HUD had to answer to be able to pay preflood value was "What is a flood control project?" In response to HUD's query, Pennsylvania's attorney general, in his opinion of August 28, 1972 (also cited as Attorney General's Opinion No. 145, 2 Pa - B 1711, Sept. 8, 1972), defined a flood control project as follows:

"It should be emphasized, firstly, that the project may be designated an 'open-space' project, an urban renewal project, a State urban

redevelopment project, etc. The source of funding and the name of the program under which such funding takes place is not determinative of whether the project is or is not 'in connection with any flood control project.'

"The term 'flood control project,' secondly, is not defined by the Act and it must be concluded, therefore, that the Legislature used that term to mean any project that could be so described by the appropriate flood control experts--e.g., Army Corps of Engineers, Pennsylvania Department of Environmental Resources--as a project which, in addition to other reasons for its implementation, serves a purpose of flood control.

"While many examples of land needed for flood control come to mind--e.g., land taken in connection with damming a river to reduce the risk of future flooding, or land needed to serve as a natural barrier for future floods,--the decision in each case must come from the experts involved " (Underscoring supplied.)

On the basis of preliminary plans, predicated on paying preflood value, HUD reserved \$187 7 million for projects in 16 municipalities of Wyoming Valley. We reviewed preliminary plans for three projects in Wilkes-Barre and one in Kingston accounting for \$122 million of the Wyoming Valley projects.

Preliminary plans for the four projects show that extensively damaged and destroyed homes and commercial/industrial buildings will be cleared and similar buildings constructed, generally on the same sites. For example, local authorities intend to purchase destroyed or structurally unsound homes at preflood value and resell the cleared sites to the previous owners or others for rebuilding. Much of the property to be acquired for urban renewal consists of individual homesites scattered throughout the project areas.

In the opinion of flood control experts of the Corps of Engineers, a flood control project significantly

--reduces the danger of flooding by such means as channeling the river bed or constructing a dike system, dam, or reservoir or

--minimizes the effects of future flooding by relocating buildings from a flood-prone area to an area not subject to flooding. For example, the Rapid City urban renewal project is designed to relocate buildings from the flood-prone area and to convert the flood plain to a public outdoor park.

The four urban renewal projects in Wilkes-Barre and Kingston are not designed to significantly reduce the danger or effects of future flooding.

The HUD General Counsel forwarded a position paper to us on September 25, 1973, a copy of which is included as appendix V. In general, HUD officials believe that Pennsylvania law and the State Attorney General's interpretation thereof were quite broad. They further believe that HUD's acceptance as authoritative, in the absence of judicial precedent, of the State Attorney General's determination of the definition of "flood control project" under a particular Pennsylvania statute was reasonable and supportable legally

In our opinion, flood control seeks to prevent large quantities of water from entering dwellings, businesses, and/or croplands. To merely provide new buildings in the same locations after the floodwaters have receded is not consonant with this intention. Therefore, we took the position that the four projects proposed for Wilkes-Barre and Kingston were not flood control projects within any reasonable interpretation of the Pennsylvania statutes, the common sense definition of the term, or the common law.

On September 27, 1973, Pennsylvania's eminent domain code was amended to eliminate the flood control project test for the payment of preflood value for real property acquired through condemnation. This amendment was made applicable to properties damaged by floods of September 1971 and June 1972.

In view of the amendment to the Pennsylvania law we cannot object as a legal matter to HUD allowing local redevelopment authorities to pay preflood value for flood damaged homes acquired for federally financed urban renewal projects. However, as a policy matter, we question whether the Federal Government should fund the payment of preflood value for property acquired for urban renewal projects.

We question whether a State should be permitted to use urban renewal funds to augment funds normally available from other Federal programs to provide assistance to individual disaster victims. In this connection, other disaster victims in the Pennsylvania project areas whose homes or businesses were damaged but whose properties were not acquired for urban renewal will not receive preflood value for their properties and will have to finance repairs with an SBA loan. Also, it appears that payment of preflood value for property acquired through condemnation in Pennsylvania could be extended to other programs financed substantially with Federal funds, such as highways.

Victims in other States whose properties are acquired for disaster-related urban renewal projects do not receive preflood value. In view of Pennsylvania's action in amending its eminent domain code so that preflood value payments were applicable to properties damaged in earlier floods, it is possible that other States may amend their laws to similarly allow payment of preflood value for real property acquired for federally financed disaster-related urban renewal projects.

RELOCATION BENEFITS BASED ON LOSS
RATHER THAN ON INCREASED COST TO RELOCATE

We noted a somewhat different problem with the disaster-related urban renewal projects in States other than Pennsylvania involving HUD's payment of relocation benefits to victims.

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4621) established a uniform policy for the fair and equitable treatment of persons displaced by Federal programs. In addition to fair market value for his property, a displaced property owner may be eligible for a relocation payment of up to \$15,000.

The acquisition payment and the relocation payment of up to \$15,000 are designed to pay

--the reasonable cost of comparable replacement property,

--any increased interest costs for financing the replacement property, and

--reasonable expenses for evidence of title, recording fees, and closing costs.

Clearly, the act was intended to preclude burdening displaced property owners with the increased costs of relocating their residences or businesses. For disaster-related urban renewal projects, however, the Federal Government may absorb additional costs. HUD officials advised us that, in computing relocation payments for disaster-related projects, they include the victims' losses.

As the following example shows, relocation benefits bear little or no relationship to the increased costs of relocation.

Assume the following: A home valued at \$30,000 was a total loss. The lot valued at \$3,000 was acquired by local authorities for urban renewal at \$3,000, and comparable housing and lot were acquired by the homeowner for \$33,000 (including closing costs) at the same or lower rate of interest as the prior mortgage.

Cost of comparable dwelling and lot	\$33,000
Less proceeds from sale of lot	<u>3,000</u>
	<u>\$30,000</u>

Because the difference is greater than \$15,000, the victim is eligible for the maximum relocation benefit of \$15,000 although he did not incur any additional cost in relocating.

The relocation payments significantly reduce, and in some cases eliminate, the disaster losses sustained by victims whose properties are acquired for urban renewal. HUD's practice favors those victims affected by urban renewal over those who have suffered similar losses but who, because they are not affected by urban renewal, must bear a greater share of their losses--as shown in the following example. The same assumptions used in our previous example apply here.

	Property acquired for urban <u>renewal</u>	Property not acquired for urban <u>renewal</u>
Cost to rebuild home	\$30,000	\$30,000
Cost for new homesite	<u>3,000</u>	<u>-</u>
	33,000	30,000
Less HUD payment for site \$ 3,000		
Less relocation benefit <u>15,000</u>	<u>18,000</u>	<u>-</u>
Actual loss	<u>\$15,000</u>	<u>\$30,000</u>

MATTERS FOR CONSIDERATION OF
CONGRESSIONAL COMMITTEES

During their hearings on disaster relief legislation, the committees may wish to discuss with HUD the policy of following State laws to establish fair market value which resulted in allowing local redevelopment authorities to pay preflood value for flood-damaged properties acquired in Pennsylvania for federally financed urban renewal projects.

Also, the committees may wish to consider whether relocation payments for disaster-related projects should include the victims' losses

DISASTERS AND FEDERAL PROGRAMS

INCLUDED IN GAO REVIEWS

We evaluated Federal programs providing assistance to victims of

- Hurricane Celia in Texas in August 1970.
- Floods in Puerto Rico in October 1970.
- Earthquake in California in February 1971.
- Flood in Rapid City, South Dakota, in June 1972.
- Tropical Storm Agnes in Pennsylvania in June 1972.

Minor review work was also done on disaster assistance provided to victims of

- Hurricane Camille in Mississippi in August 1969.
- Tornado in Mississippi in August 1969.
- Hurricane Fern in Texas in September 1971.
- Floods in Oregon in January 1972.
- Floods in Washington in June 1972.
- Floods in Arizona in October 1972.

We evaluated

- Disaster loans made by SBA and FHA to persons suffering home and personal property losses and to farmers suffering operating losses.
- Temporary housing assistance provided to victims by HUD.
- Disaster-related urban renewal assistance provided by HUD.
- Assistance provided by the Office of Emergency Preparedness for repairing or replacing disaster-damaged public facilities. (See pp. 6 and 7)
- Coordination and planning by the Federal agencies involved in disaster relief

ACTIVITIES OF FEDERAL AGENCIES IN
DISASTER ASSISTANCE

FDAA provides grants to the public and private sectors to restore such facilities as roads, schools, hospitals, and utilities. It is also responsible for coordinating overall Federal disaster relief.

Department of Agriculture

Food and Nutrition Service distributes food and free food stamps.

Agricultural Stabilization and Conservation Service provides grants for farmers to restore damaged acreage and for emergency livestock feed.

FHA provides disaster loans to farmers, ranchers, and oyster planters suffering production and/or physical losses.

Soil Conservation Service provides grants and technical assistance for planning and carrying out flood prevention projects, rehabilitating damaged agricultural lands and water resources, and related problems.

Forest Service protects National forests from fire, insects, disease, and soil erosion.

Extension Service provides technical advice and assistance to rural residents on cleanup of damaged property, sanitary precautions, insect control, and use of chemical pesticides.

Appalachian Regional Commission provides grants in the Appalachian area for local planning, housing site development, and subsurface restabilization for mines.

Department of Commerce

Economic Development Administration assists in reconstructing public facilities needed to initiate and encourage long-term economic growth, provides low-interest, long-term loans to help businesses expand

or establish plants in redevelopment areas, and assists in solving problems of economic growth through feasibility studies, management and operational assistance, and other studies.

National Oceanic and Atmospheric Administration provides financial assistance to restore commercial fisheries and to help the commercial fishing industry upgrade fishing vessels and gear, and thus contributes to more efficient and profitable fishing operations.

Department of Defense

Department of the Army provides emergency health, sanitation, and safety resources, search and rescue operations, space on military bases for temporary housing, air transportation and communications support, and loan of military equipment, such as bridging. It coordinates all Department of Defense military support requirements through the numbered Army Commands.

Department of the Air Force provides personnel and material resources, primarily aircraft, in response to requests for military assistance.

Department of the Navy provides personnel and material resources in response to requests for military assistance.

Corps of Engineers assesses damages, surveys needs for emergency work under the Disaster Relief Act of 1970, and conducts such operations as debris removal, flood control, repairing or restoring public facilities, and constructing mobile homesites.

National Guard Bureau provides Federal funds to National Guard units engaged in disaster relief functions during their 2 weeks of training.

Defense Civil Preparedness Agency provides communications, emergency power, space, and equipment for directing and controlling emergency operations and loans emergency water supply equipment to assist in overcoming severe water shortages.

APPENDIX II

National Communications System works with Federal, State, local, and private agencies to establish the emergency communications needed by Federal agencies in disaster areas.

Environmental Protection Agency assists in restoring utility services.

Federal Power Commission analyzes problems with interstate transmission lines, natural gas pipelines, and other facilities under its jurisdiction.

General Services Administration provides office space, facilities, and communications for Federal agencies assisting disaster areas.

HEW

Office of Education provides grants for repairing and reconstructing damaged elementary and secondary school facilities.

Food and Drug Administration helps Federal, State, and local health agencies to establish public health controls through decontamination or condemnation of food and drugs.

Public Health Service helps to minimize health hazards in disaster areas and provides emergency medical stocks and Federal doctors when required.

HUD provides temporary housing and arranges with local, State, and Federal agencies for this housing. It also assists in financing the clearance, redevelopment, and rehabilitation of disaster-stricken communities through its urban renewal and Interim Assistance programs.

Department of the Interior

Bureau of Mines provides technical assistance in inspecting areas for mine subsidence caused by a disaster.

Defense Electric Power Administration gives utility companies technical advice and assistance on restoring electric power facilities.

Interstate Commerce Commission helps to expedite the movement of essential supplies in disaster areas.

Department of Labor works with State employment services to provide disaster unemployment assistance.

Office of Economic Opportunity assists low-income families and minority groups in obtaining disaster assistance and meeting emergency needs.

SBA provides disaster loans to persons suffering home and personal property losses and to businesses suffering losses.

Department of Transportation

U.S. Coast Guard provides communications and helicopter support and conducts search and rescue operations.

FHWA assists in financing repair and reconstruction of roads and bridges which are part of the Federal-aid system.

Department of the Treasury:

Internal Revenue Service advises individual disaster victims about getting tax relief, filing tax loss claims, and substantiating their losses.

Veterans Administration defers payments on home loans and insurance.

APPENDIX III

SIGNIFICANT DIFFERENCES IN BENEFITS

AVAILABLE TO VICTIMS OF DISASTERS

OCCURRING DURING FISCAL YEARS 1970-73

Federal assistance to victims of disasters occurring during fiscal years 1970-73 was governed by one or more of the following Public Laws

- 91-79, October 1969 (Disaster Relief Act of 1969).
- 91-606, December 1970 (Disaster Relief Act of 1970)
- 92-385, August 1972. (These amendments to the 1970 act expired on June 30, 1973)
- 93-24, April 1973

Enactment of the Public Laws below resulted in significant differences in benefits available to disaster victims

Forgiveness (SBA and FHA loans)

- 91-79--Up to \$1,800 of loan principal in excess of \$500
- 91-606--Up to \$2,500 of loan principal in excess of \$500
- 92-385--First \$5,000 of loan principal
- 93-24--No forgiveness

Interest rate (SBA and FHA loans)

- 91-79--Treasury interest rate for those who could obtain credit elsewhere, not to exceed 3-percent interest rate for others
- 91-606--Treasury interest rate reduced by up to 2 percent but not to exceed 6 percent.
- 92-385--1-percent interest rate.
- 93-24--Interest rate not to exceed 5 percent

Mortgage refinancing (SBA and FHA loans)

- 91-79 and 91-606--Allowable to amount of loss

--92-385--Complete refinancing allowable for SBA home loans.

--93-24--No change. However, because of expiration of Public Law 92-385 on June 30, 1973, refinancing is currently allowable up to the amount of loss.

Availability of credit elsewhere (SBA and FHA loans)

--91-79--Provided for making loans without regard to availability of credit elsewhere except that interest rate was higher if credit was available.

--91-606 and 92-385--Provided for making loans without regard to availability of credit elsewhere.

--93-24--Provided for making FHA loans only when victims were unable to obtain sufficient credit elsewhere at reasonable rates and terms.

Temporary housing

--91-79--Housing rent based on victim's ability to pay, waiver of payments allowable for up to 12 months.

--91-606--Up to 12 months' free rent to each victim without regard to his ability to pay

--92-385 and 93-24--No change.

APPENDIX IV

EXAMPLES OF UNNECESSARY COSTS INCURRED WHEN
 REPAIRED PROPERTIES ARE ACQUIRED FOR
 DEMOLITION IN URBAN RENEWAL

Price based on fair market value at acquisition

	<u>Repaired property</u>	<u>Nonrepaired property</u>
Value before damage	\$20,000	\$20,000
Value of damage	<u>10,000</u>	<u>10,000</u>
Value after damage	10,000	10,000
Repairs to property--SBA loan	<u>10,000</u>	-
Property value at acquisition by urban renewal	<u>\$20,000</u>	<u>\$10,000</u>
Unnecessary costs incurred by urban renewal project	<u>\$10,000</u>	\$ -

Each victim has sustained a \$10,000 loss The victim receiving \$20,000 for his property must repay \$10,000 to SBA

Price based on fair market value before damage

	<u>Repaired property</u>	<u>Nonrepaired property</u>
Value before damage	\$20,000	\$20,000
Value of damage	<u>10,000</u>	<u>10,000</u>
Value after damage	10,000	10,000
Repairs to property--SBA loan	10,000	-
Property acquired at preflood value	20,000	20,000

The victim who has repaired his home must repay \$10,000 to SBA and, consequently, has incurred unnecessary costs, but the other victim has not incurred such costs

To simplify these illustrations we ignore the \$5,000 forgiveness, assuming that the total loan was for \$15,000--\$10,000 for real property and \$5,000 for personal property--and that the personal property losses absorbed the forgiveness amount

In both illustrations, SBA incurs costs on the unnecessary loan because of a 4- to 5-percent interest rate Federal subsidy.



THE GENERAL COUNSEL OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D C 20410

SEP 25 1973

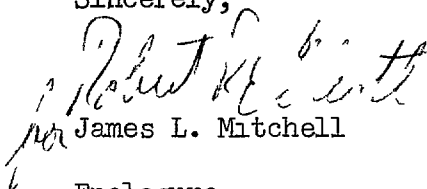
Paul G. Dembling, Esq
General Counsel
U.S. General Accounting Office
Washington, D. C. 20548

Dear Mr. Dembling:

In response to your letter of August 22, I am submitting for your consideration our position paper on the payment of pre-flood values for real property acquired in connection with urban renewal projects to be carried out in areas of the State of Pennsylvania which were damaged by flooding caused by Hurricane Agnes.

I appreciate your giving me the opportunity to comment on this matter and will be happy to discuss it further with you at your convenience.

Sincerely,


per James L. Mitchell

Enclosure

PAYMENT OF PRE-FLOOD VALUE--PENNSYLVANIA DISASTER PROJECTSI. Flood Related Urban Renewal Projects--State of Pennsylvania

A number of the cities and townships in the State of Pennsylvania have initiated programs of urban renewal for areas damaged by flooding resulting from Hurricane Agnes. Applications for Federal financial assistance in connection with this effort have been filed with and approved by HUD pursuant to Title I of the Housing Act of 1949, as amended, P.L. 81-171, 63 Stat. 413, U.S.C. 1450 et seq. Local activities so assisted will include the acquisition of certain flood damaged properties.

II. HUD's Policy Regarding Compensation for Acquired Real Property

HUD has decided that such acquisition is to be accomplished pursuant to Pennsylvania law and that compensation for property acquired is to be determined under principles of State law. This decision follows established practice and is based upon considerations flowing from the Federal Urban Renewal Law, basic conflict of law principles 1/, and the Uniform Relocation Assistance and Real Property Acquisition Policies Act 2/. Furthermore, HUD has determined that it will look to authoritative State sources for interpretations of the controlling State law. Such sources are judicial opinions and, in the absence thereof, opinions of the State Attorney General 3/.

III. Application of State Law to Projects

The Pennsylvania Eminent Domain Code of June 22, 1964, as amended, October 19, 1967, P.L. 460 (26 P.S. § 1-602) in relevant part provides:

"In case of the condemnation of property in connection with any flood control project which property is damaged by flood, the damage resulting therefrom shall be excluded in determining fair market value of the condemnee's entire property interest therein immediately before the condemnation; provided such damage has occurred within three years of the date of taking and during the ownership of the property by the condemnee. The damage resulting from floods to be excluded shall include only physical damage of property for which the condemnee has not received any compensation or reimbursement." (emphasis added).

In order to interpret the applicability of this provision of State law to urban renewal projects in the Hurricane Agnes damaged areas of Pennsylvania, we first attempted to determine if any judicial precedent could be found indicating a definition of the term "flood

control project" as used in the portion of the Pennsylvania Eminent Domain Code quoted above. We found that no such precedent existed because the enactment was a recent one which has not yet been tested in any State court. Accordingly, we looked to an opinion of the highest law officer of the State. That opinion was provided in two documents--a letter opinion of the State Attorney General dated August 28, 1972 (cited as Attorney General's Opinion No. 145, 2 Pa. B 1711 of 9/8/72) and a letter of September 7, 1972 to HUD from Governor Shapp of Pennsylvania, which was approved by the State Attorney General. In relevant part, the opinion was as follows:

"The term 'flood control project,' . . . is not defined by the Act and it must be concluded, therefore, that the Legislature used that term to mean any project that could be so described by the appropriate flood control experts . . . e.g. Army Corps of Engineers, Pennsylvania Department of Environmental Resources . . . as a project which, in addition to other reasons for its implementation, serves a purpose of flood control." (Opinion No. 145).

"A flood control project is any urban renewal, open space and/or public work in which, in the opinion of appropriate flood control experts, a significant portion of the funds expended contribute to reduction in the danger of flooding or mudslides, and, in the event flooding occurs, a substantial reduction in the water level and/or damaging effect of such flooding or mudslides. A project which in substantial part, is designed to relocate structures, highways and roads and other public and private improvements from a flood prone area, or an area damaged by flooding, to an area not subject to floods, is a flood control project. A project which involves buildings or other improvements, even in substantial extent, is not precluded from being a flood control project if the project is designed in significant part to reduce or eliminate flooding or the effect of flooding or mudslides when they occur." (Gov. Shapp's letter).

This opinion was accepted by HUD as authoritative.

IV. The Issue Raised by GAO

GAO contends that HUD has interpreted the State law and the State Attorney General's opinion to permit designation as a "flood control project" of an urban renewal project solely on the basis that the project will eliminate the effect of past flooding. GAO further contends that projects of this type are not "flood control projects" under the Pennsylvania law. In this connection, we are advised that the GAO position appears to be based upon its review of four renewal projects proposed in Hurricane Agnes damaged areas of the State of Pennsylvania. These are the South Wilkes-Barre, Downtown Wilkes-Barre, Iron Triangle (Wilkes-Barre) and Kingston Projects.

V. HUD Response

While we can understand the GAO's concern, we believe that the Pennsylvania Law and the State Attorney General's interpretation thereof are quite broad. Moreover, we also believe that the question of whether they would embrace projects involving only the reduction or elimination of the effect of past flooding is not free from doubt. At any rate, we would also point out that the four projects reviewed by GAO cannot be so described.

VI. Project Characteristics

It is our understanding that each of the project areas meets Federal flood plain standards. In other words, each project area is above the one-hundred year flood level (flooding caused by Hurricane Agnes exceeded a three hundred thirty-five year flood level) so that rebuilding of the project areas is clearly consistent with Federal standards. Moreover, HUD is insisting that rebuilding must be to standards which permit the obtaining of Federal flood insurance for properties in the projects areas. In other words, properties will be rebuilt to minimize the damage thereto that could result from future flooding. Finally, a review of the flood control project certifications ^{4/} for these projects indicates that they are all part of larger flood control efforts involving the project areas and nearby areas. These flood control efforts include: restoration of dikes along the Susquehanna River and raising of such dikes to provide an additional two to four feet of flood protection for the project areas; a series of flood prevention systems in the upper Susquehanna River including dams, impounding basins and channelization; reduction of building and population densities in the project areas and increased devotion of portions of the project areas to open space; and storm drainage sewer improvement work in the project areas to channelize and control smaller creek flooding. Thus, it is our position that State certification of these projects as flood control projects was reasonable, as was HUD's acceptance thereof.

A further point about these projects should be noted, and that is that they constitute part of an unprecedented restoration effort by the Federal, State and local Governments intended to alleviate the personal hardships, losses and privations resulting from the aftermath of Hurricane Agnes. Neither the Pennsylvania law nor the State Attorney General's opinion require that flood control be the sole or primary purpose of a "flood control project" and we do not contend that these projects could meet such a test. We merely contend that they are sufficiently related to flood control efforts to qualify under the Pennsylvania law. Moreover, we would further contend that the nature and intent of these projects calls for a liberal and humanitarian interpretation and application of that law.

VII. Conclusion

We believe that there can be no real question that compensation for real property acquired for these disaster related urban renewal projects is to be determined in accordance with principles of State law. We further believe that HUD's acceptance as authoritative, in the absence of judicial precedent, of the State Attorney General's determination of the definition of "flood control project" under a particular Pennsylvania statute was reasonable and supportable legally. We think that the real issue here is whether the rule of State law provided by the State Attorney General was reasonably applied to four urban renewal projects. We believe it was proper for HUD to allow payment of pre-flood values for flood damaged properties in these four project areas and that such projects were properly designated as "flood control projects" under State law.

BEST DOCUMENT AVAILABLE

FOOTNOTES

1. Title I of the Housing Act of 1949 contemplates a contractual, rather than a regulatory, basis for the Federal Government's dealing with localities in regard to urban renewal and does no more than specify the terms and conditions upon which Federal financial assistance contracts for urban renewal projects will be entered into. Since the basis for the Federal Government-locality relationship in regard to urban renewal is contractual, it is also apparent that the controlling law is the law of the situs of the contract. The general choice-of-law rule with respect to the nature, validity, obligation and interpretation of contracts is that the *lex loci contractus* (law of the place of making) will govern. Cox v. U.S. 31 U.S. 172 (1832); Milliken v. Pratt, 125 Mass. 374 (1878). It should be noted that in Griffin v. McCroach, 313 U.S. 498 (1941) and Klaxon Co. v. Stenor Electric, 313 U.S. 487 (1941), Erie Railroad Co. v. Tompkins, 304 U.S. 64 (1938) was extended by requiring a Federal court, under diversity jurisdiction, to apply State rules of choice of law. Pennsylvania's choice of law rule in contracts is to apply the law of the place of contracting and performance. C.B. Snyder Realty Co. v. Sherrill-Noonan, Inc., 261 F. 2d 269 (3rd Cir. 1959). Note also that recently, Pennsylvania courts adopted an "interest analysis" in conflicts cases and will apply the law of the State which has the greatest interest in both tort and contract cases. De Angelis v. Scott, 337 F. Supp. 1021 (W.D. Pa. 1972).

2. Pursuant to Section 305 of this Act (P.L. 91-646, 84 Stat. 1894, 42 U.S.C. 4601), HUD cannot approve any program or project of urban renewal involving the acquisition of real property unless it receives satisfactory assurances from the acquiring authority that:

"(1) in acquiring real property it will be guided to the greatest extent practicable under State law, by the land acquisition policies in Section 301 and the provisions of Section 302" (emphasis added).

Section 301 of this Act provides in relevant part as follows:

"(3) Before the initiation of negotiations for real property, the head of the Federal Agency concerned shall establish an amount which he believes to be just compensation therefor and shall make a prompt offer to acquire the property for the full amount so established. In no event shall such amount be less than the Agency's approved appraisal of the fair market value of the real property" (emphasis added).

Our interpretation of these requirements of the Uniform Act is that in the context of urban renewal, owners of real property to be acquired for projects are to be offered at least the fair market value of their property and that such value is to be established in accordance with principles of State law. It should be noted in this connection that the use of fair market value as a basis for just compensation for real property acquired for public projects is and always has been deemed a constitutional requirement both on Federal and State levels; see Olsen v. United States, 292 U.S. 246 (1934) and Brown v. Forest Water Co., 213 Pa. 440, 62 A 1078 (1906).

3. It should be emphasized that in connection with the urban renewal program, HUD and its predecessor, the HHFA, have often looked to State Attorney General opinions for authoritative interpretations of State law in the absence of judicial precedent. This was true in the early days of the program when basic and novel questions of the program's constitutionality were confronted. It was also true in 1968-69 when the program faced its first interest rate "crisis" on project borrowings and State Attorney General opinions were looked to as authoritative on the novel issue of maximum permissible State interest rates for project borrowings. More recently, HUD has looked to State Attorney General opinions on the judicially untested issue of ability to comply under State law with certain requirements imposed by the Uniform Relocation Assistance and Real Property Acquisition Policies Act (pursuant to Section 210 of the Uniform Act, ability to comply is a precondition to Federal funding of HUD-assisted projects, including urban renewal). Thus, the practice has a considerable history. Moreover, the practice has strong support in law, cf. Erie v. Tompkins, 304 U.S. 64 (1938) which rejected the notion that State law questions are to be decided according to Federal standards of reasonableness and/or common sense or according to principles established by some Federal "common law".
4. Prior to HUD acceptance of any proposed urban renewal project in Pennsylvania as a "flood control project," it is required that a certification to that effect by an appropriate State officer be submitted to HUD together with an explanation of the rationale for the certification. Each project is approved by HUD as a flood control project only after receipt of such a certification. The comments regarding the specific flood-related characteristics of these projects is based upon a review of those certifications (copies attached) and information provided by HUD administrative staff.

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