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REPORT TO THE CONGRESS



BY THE COMPTROLLER GENERAL
OF THE UNITED STATES

Little Accomplished In Insuring That Proper Rents Are Charged Under The Section 236 Rental Assistance Housing Program

Department of Housing and Urban Development

The Department has made little progress in correcting the section 236 program weaknesses GAO brought to its attention over 3 years ago. The Department's monitoring of practices followed by project owners in determining tenant's income for rent purposes continues to be inadequate. As a result, the Department offers little assurance that tenants are paying proper rents or that project owners are remitting certain required amounts to it.

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OCT. 5, 1976



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-171630

To the President of the Senate and the
Speaker of the House of Representatives

This report shows how the Department of Housing and Urban Development can improve its program to insure that tenants in subsidized housing projects are paying proper rents.

We undertook this review because the amount of the Federal subsidy is greatly influenced by the amount of income used to compute the tenant's rent and because our prior review of this program and other subsidized housing programs showed that tenants' incomes were not being determined properly.

We made our review pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53 (1970)), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67 (1970)).

We are sending copies of the report to the Director, Office of Management and Budget, and to the Secretary of Housing and Urban Development.

A handwritten signature in cursive script that reads "James B. Hails".

Comptroller General
of the United States

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Housing and Urban Development responsible
for administering activities discussed in
this report

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ABBREVIATIONS

GAO General Accounting Office

HUD Department of Housing and Urban Development

COMPTROLLER GENERAL'S
REPORT TO THE CONGRESS

LITTLE ACCOMPLISHED IN INSURING
THAT PROPER RENTS ARE CHARGED
UNDER THE SECTION 236 RENTAL
ASSISTANCE HOUSING PROGRAM
Department of Housing and
Urban Development

D I G E S T

In two earlier reports, GAO told the Congress that incomes of tenants in rental housing projects subsidized by Department of Housing and Urban Development programs were not being verified nor certified adequately to be sure that appropriate rents were being charged.

The Department cited several actions that it had taken, or planned to take, under the section 236 rental assistance housing program to determine the income of tenants for rent purposes. But this report shows that the Department has made little progress since GAO's earlier reports over 3 years ago. The Department still has little assurance that tenants are paying proper rents or that section 236 housing project owners are remitting certain required amounts to the Department.

Under the program, the Department insures privately financed mortgage loans for constructing or rehabilitating multifamily housing projects and pays the mortgage insurance premiums and interest on mortgage loans over 1 percent.

The Department establishes a basic monthly rent lower than would apply if a housing unit received no Federal assistance. Basic rent is necessary to recover housing operating costs, construction cost, and limited profit. The purpose of section 236 was to make rental housing available to persons with incomes too high to entitle them to low-rent public housing yet not high enough to obtain standard housing.

The monthly rent for each dwelling unit normally is either the basic rent or 25 percent of the tenant's adjusted monthly income, whichever is greater.

Department regulations require project owners to annually, on the anniversary date of occupancy, obtain and verify the tenant's income--referred to as income recertification--and then adjust the rental rate accordingly.

This report shows that the Department has not monitored income recertifications effectively to be sure that they are carried out in conformance with its requirements and that proper rents are charged.

RECOMMENDATIONS

GAO is recommending that the Secretary of Housing and Urban Development

--implement an effective program, including employment of sufficient staff, to make the required annual visits to section 236 projects to evaluate owners' practices for obtaining income recertifications and for recomputing tenants' rents;

--reemphasize to section 236 project owners the importance of complying with Department requirements for obtaining timely income recertifications and of using complete income data in recomputing tenants' rents; and

--explore further courses of action that can be taken to insure that section 236 project owners comply with Department procedures.

The Department agreed and has actions underway, or planned, in response to them. (See p. 17.)

FINDINGS

The Department had insurance outstanding for 3,601 section 236 projects which contained about 400,000 units as of March 31, 1976. At this same date it had made mortgage interest subsidy payments of about \$1.3 billion, with payments over the remaining life of the program estimated at \$10.3 billion.

For 607, or 81 percent, of the 750 tenants' records reviewed at 15 projects, recertifications were made late or not made at all. (See pp. 6 to 7.)

When income recertifications are made late or not made at all, a large number of tenants are charged rents which are more or less than that required. Also, when increased income results in raising rent to the point where it exceeds basic rent, the excess is to be re-mitted to the Department.

Analysis of 6,035 income recertification forms in March 1976 showed an average increase in tenant's rent of \$3 a month. Rent for 1,248 tenants increased an average of \$17 a month; rent for 197 tenants decreased an average of \$14 a month; and the rent for 4,590 tenants remained the same.

Accordingly, applying the average increase of \$3 a month to the 607 tenants who GAO found were recertified late or not recertified at all, GAO estimates that rents were underpaid by about \$13,800 from the date the tenant was scheduled to be recertified to the GAO cutoff date--June 30, 1974. (See p. 8.)

GAO was unable to determine with precision the effect of income recertifications nationwide because a statistically valid sample could not be made. Nevertheless, on the basis of the best information available, GAO estimates that at least 128,000 tenants require recertification annually with the following effect:

- 26,880 rents would increase by an average of \$17 a month for a total increase of \$457,000 a month,
- 3,840 rents would decrease an average of \$14 a month for a total of about \$53,760 a month, and
- 97,280 rents would remain unchanged. (See p. 9.)

Project owners did not always obtain written verification of the tenant's reported income with the tenant's employer or did not use all income data available, such as overtime or bonuses, in determining the amount of income to be used in establishing rental rates.

For example, GAO's recomputation of the rents that 36 tenants should have paid if all available income data had been used showed net underpaid rent of \$4,800. (See p. 12.)

IMPOUNDMENT OF OPERATING SUBSIDY FUNDS

As of May 31, 1976, the Department had about \$47.2 million in its Rental Housing Assistance Fund from excess rents paid by tenants residing in section 236 projects and interest earned thereon. Until August 9, 1976, the only purpose for which moneys from this fund could be used was for the payment of operating subsidies to section 236 projects. The Department, however, has not implemented the operating subsidy program, nor has it reported its nonuse of budget authority to the Congress as required. (See p. 19.)

On April 20, 1976, GAO reported to the Congress that the Department's actions constituted a de facto rescission proposal of budget authority. The Department disagreed with GAO's decision to report a proposed rescission of budget authority because the moneys in the fund are cash only and as such are for liquidating contractual commitments but not for making new commitments.

In June 1976 the Department was ordered by the court to implement the operating subsidy program but has appealed the court order. GAO, by letter of July 7, 1976 (see app. II), sent the Congress a statement of its intent to bring suit against the Department to require the release of budget authority. However, the Department's Appropriation Act for fiscal year 1977 authorizes the Department to disperse the moneys from the fund to other programs, which when done would make GAO's lawsuit unnecessary. The Director of the Department's Budget Office told us that the moneys would be dispersed shortly after the beginning of fiscal year 1977.

CHAPTER 1

INTRODUCTION

The Housing and Urban Development Act of 1968 (42 U.S.C. 1441a), amended the National Housing Act (12 U.S.C. 1715z-1) by adding section 236 which authorized a program under which multifamily rental housing units would be provided to low- and moderate-income families.

Under this program, the Department of Housing and Urban Development (HUD) is authorized to insure privately financed mortgage loans for constructing or substantially rehabilitating multifamily housing projects and to pay, on behalf of the mortgagors, the mortgage insurance premiums and the interest on the mortgage loans over 1 percent.

Because HUD makes these payments--called interest reduction payments--a basic monthly rent that is lower than would apply if the project received no Federal assistance is established for each housing unit. Basic rent is the rent necessary to recover housing operating costs, construction costs, and profit for a limited-dividend project financed under a mortgage having an interest rate of 1 percent.

Section 236 rental housing was to be made available to persons with incomes too high to entitle them to low-rent public housing but not high enough for them to obtain available standard housing.

The monthly rent for each dwelling unit is either the basic rent or an amount equal to 25 percent of the tenant's adjusted monthly income, whichever is greater. However, a tenant cannot be required to pay more than the fair market rent established for the unit, which is determined on the basis of operating the project without benefit of the interest reduction payment.

HUD has another program, involving many section 236 projects, which was not included in this review, under which a rent supplement is provided for certain families that cannot afford to pay the basic rent. The amount of rent supplement for a unit is limited to the difference between the basic rent and the greater of 25 percent of the tenant's income or 30 percent of the basic rent. This program was authorized by section 101 of the Housing and Urban Development Act of 1965.

HUD's Assistant Secretary for Housing Management is responsible for developing policies and procedures concerning the operation of section 236 projects. The responsibility for assuring that these policies and procedures are implemented has been delegated to HUD's 76 area and insuring offices.

Under section 236(g) of the National Housing Act, as amended, a project owner is required to remit to HUD all rent collected in excess of the basic rent. HUD was to use these excess rents to make interest reduction payments for section 236 projects and thus reduce the amount of HUD's request for section 236 program appropriations. As of May 31, 1976, excess rents collected by HUD and interest earned on the funds totaled about \$47.2 million.

The Housing and Community Development Act of 1974, enacted in August 1974, eliminated HUD's authority to use excess rents to make interest reduction payments. The 1974 act authorized HUD to use excess rents to pay operating subsidies for section 236 projects. As discussed in chapter 3, however, HUD has decided not to use the excess rents collected for this purpose. HUD's Office of General Counsel has determined that the new provision is applicable to excess rents collected and not spent before the 1974 act as well as rents collected after the 1974 act.

In June 1974 HUD revised the method for calculating excess rents by permitting project owners to deduct rental losses from excess rent collections. In a November 5, 1975, statement before the Senate Committee on Banking, Housing and Urban Affairs, the Secretary of HUD stated that the change was an effort to assist financially troubled section 236 projects.

As of March 31, 1976, HUD was responsible for overseeing the administration of 3,601 section 236 projects which contained about 400,000 units. From the inception of the program to March 31, 1976, HUD made assistance payments of \$1.3 billion.

On January 5, 1973, HUD suspended the section 236 program along with other federally assisted housing programs. However, considerable expenditures under the program will continue for many years because of the large number of units already operating under the program. HUD estimates that interest reduction payments on existing projects could amount to about \$10.3 billion over the remaining life of these project mortgages.

INCOME RECERTIFICATION REQUIREMENTS

Section 236(e) of the National Housing Act provides that, as a condition for receiving the benefits of interest reduction payments, project owners shall operate the projects in accordance with HUD-prescribed procedures for tenant eligibility and rents. It also provides that HUD shall establish procedures for the review of tenant incomes at intervals of 2 years or at shorter intervals if HUD deems it desirable.

HUD regulations require project owners to recertify annually the incomes of all tenants paying less than fair market rents. The recertification process consists of the tenant reporting his income to the project owner who then obtains written verification of the amount reported with the source of the income, such as an employer or welfare agency. This income information is then analyzed together with data on family size and the rental rates to arrive at the appropriate adjustment, if any, in the tenant's monthly rental charge. Project owners are required to retain documentation for 3 years supporting the basis used to establish the tenant's rental payment. Project owners receive a percentage of gross rent receipts as a fee to carry out various project management activities, including recertification of tenant incomes. However, the fee is not allocated to individual management activities.

PRIOR GAO EVALUATIONS OF INTEREST SUBSIDY RENTAL HOUSING PROGRAMS

We issued two reports to the Congress on HUD's oversight of the administration of interest subsidy rental housing programs. One of the reports, entitled "Tighter Controls Needed on Occupancy of Federally Subsidized Housing" (B-114860, Jan. 20, 1971), focused on the section 221(d)(3) program, which was the predecessor program to the section 236 program, and had policies and procedures similar to those followed under the section 236 program. The other report, entitled "Opportunities to Improve Effectiveness and Reduce Costs of Rental Assistance Housing Program" (B-171630, Jan. 10, 1973), focused on HUD's oversight of the section 236 program.

CHAPTER 2

CONTINUING IMPROVEMENTS NEEDED IN DETERMINING

TENANT'S INCOME FOR RENT PURPOSES

In two earlier reports to the Congress we commented that incomes for tenants in interest subsidy rental housing projects were not being adequately verified and/or certified to insure that appropriate rental rates were being charged. In the first report (B-114860, Jan. 20, 1971) we pointed out that at 25 section 221(d)(3) projects opened during 1 year, the project owners (1) did not obtain current income and employment information from families occupying about 20 percent of 2,947 units and (2) did not verify, before occupancy, income and employment information reported by families occupying about 26 percent of the units. In the second report (B-171630, Jan. 10, 1973) we pointed out that at selected projects tenants were being charged less rent than they should have been charged on the basis of their reported incomes and/or the incomes of some tenants were either not verified or were incorrectly verified. Both of the above reports noted that the Department of Housing and Urban Development's Office of Audit had found similar deficiencies in its reviews of a large number of subsidized rental projects.

In commenting on these reports, HUD cited several actions that it had taken or planned to take to improve project owner compliance with HUD instructions for obtaining and verifying family income information. These actions included increasing its field office staffs to administer the program, including monitoring certification, recertification, and verification of tenant incomes.

Our current followup review at 15 projects showed that little progress has been made since we brought this matter to HUD's attention over 3 years ago, and weaknesses still exist in the practices followed by project owners in recertifying tenants' incomes and HUD monitoring of the practices followed.

Contrary to HUD's program requirements, we found that

- tenants' income recertifications were made late or not made at all by the project owners and
- income reported by tenants was not verified or considered by project owners in computing rents charged tenants.

As a result, HUD has little assurance that tenants are paying the proper rental rates under the program or that project owners are remitting the proper amount of excess rental payments to HUD.

Although HUD field offices are required to visit project owners at least once a year to review a representative sample of recertifications completed by the project owners, we found that the field offices did not always make such reviews. During fiscal year 1974, the 76 HUD field offices were required to make onsite visits at 2,950 projects. However, during this period, HUD field offices did not make 1,710, or 58 percent, of the required onsite visits even though HUD considers these visits important for overseeing the management activities of project owners.

Although our review was limited to 15 projects under the jurisdiction of 3 HUD area offices, we believe that the deficiencies identified are representative of the conditions existing at section 236 projects nationwide because:

- The three HUD offices visited--Detroit, Michigan; Philadelphia, Pennsylvania; and San Francisco, California--were responsible for overseeing 36,814 housing units which represented about 10 percent of the 369,533 units in operation under the program at the time we selected the projects for review.
- Responses by 54, or about 71 percent, of the 76 HUD field offices to a questionnaire we sent them during our review also identified problems at section 236 projects visited by their staffs similar to those we identified at the 15 projects we visited during our review.
- HUD's Office of Inspector General audits of 19 other section 236 projects in 11 States identified deficiencies similar to those we identified.

OWNERS RECERTIFICATION OF TENANTS'
INCOMES MADE LATE OR NOT MADE AT ALL

To determine if project owners were following HUD's regulations and guidelines for income recertification, we reviewed income recertification records for 750 tenants requiring recertification during fiscal year 1974 at 15 projects--5 projects from each of 3 HUD area offices.

Income recertifications were made late or not made at all by project owners for 607, or 81 percent, of the 750 tenants. Eleven of the project owners were late an average

of 5 months in recertifying tenants' incomes and adjusting rents for 389 tenants. Project owners at the remaining 4 projects did not make the required recertifications for 218 tenants whose records we reviewed at these projects.

HUD requires project owners to establish and maintain controls to insure that income recertifications are completed and rent adjustments are put into effect by the first of the month following (1) the tenant's anniversary date of initial occupancy or (2) 1 year from the previous income recertification. A tenant may have his income recertified before his anniversary date if his income decreases.

Late recertifications

Project owners were not recertifying tenants' incomes within the time required at 11 of the 15 projects included in our review. Of the 532 tenant income recertification records reviewed at these 11 projects, 389, or 73 percent, were prepared an average of 5 months late. The extent to which project owners were late in recertifying the 389 tenants' incomes as of June 30, 1974, is shown below.

<u>Months late at 6-30-74</u>	<u>Number of tenants</u>
1 to 5	230
6 to 12	141
13 to 18	<u>18</u>
	<u>389</u>

For example, we tested the income recertification practices followed by 1 project owner for 50 tenants who were required to be recertified during fiscal year 1974. As of June 30, 1974, the required recertifications either had not been made or rent changes indicated by those recertifications that were made had not been put into effect. As of June 30, 1974, these recertifications were from 1 to 11 months late, averaging about 7 months. The project manager began to recertify tenants' incomes in June 1974. However, in November 1974, incomes of 13 of the 49 tenants had still not been recertified.

The project manager told us that HUD's area office advised him in mid-1973 to recertify tenants annually instead of biennially. He explained that recertifications were not started until June 1974 because he thought all tenants had to be recertified at one time and he had not developed procedures to do this until June 1974. He also stated that tenants complained about having their incomes recertified more frequently than biennially.

Income recertifications not made

Project owners at 4 of the 15 projects did not make the required income recertifications for 218 tenants whose records we reviewed. In addition, project records and discussions with project managers disclosed that the four projects owners had never obtained income recertifications for any tenants living in these projects. These projects contained a total of 433 units and had been in operation for 2 to 4 years at the time of our review.

In most cases, sufficient income data was not available in the project records to determine the effect of recertifications not being made on rents charged tenants or rents due to HUD. However, there was sufficient income data available to make such a determination for 17 tenants at 1 project.

The previous manager of this project had obtained income data for some tenants in March and April 1973 but did not use this data to recompute rental payments. For 13 of the 17 tenants, the income data on file showed that during the period of March 1973 to June 1974 these tenants paid a total of about \$7,600 less in rents than HUD guidelines required. For the four remaining tenants, the data showed that no change in rents would have resulted from recertification. If the \$7,600 had been paid, the owner would have been required to remit these funds to HUD as excess rents since the additional rental payments exceeded the basic rent.

For example, although some tenants had resided at this project since late 1970, project managers had never recertified incomes nor recomputed rental rates. During fiscal year 1974, 123 of the tenants residing at this project should have had their incomes reviewed and rental rates recomputed.

A HUD onsite review of this project's operation in October 1973 disclosed that the project was not complying with HUD requirements for recertifying tenants' incomes and adjusting rents charged. At HUD's insistence the project owner hired a new manager in June 1974. However, at the time we completed our review, the new manager had not recomputed rental payments. He informed us that he was concentrating his efforts on more important problems confronting the project which included collecting delinquent rents, improving the physical appearance of the project, and tenant-management relations.

Effects of late recertification or no
recertification of tenants' incomes

When tenants' income recertifications are made late or not made at all by projects owners, a large number of tenants residing in section 236 projects are charged rents which are more or less than that required under the program. Although income recertification may result in some instances in decreasing rents charged tenants, it generally results in increasing rents. When increased income results in raising rent to the point where it exceeds basic rent for a unit, the excess is to be remitted to HUD.

We were unable to randomly sample recertification forms to determine the impact that recertifications have on rents charged because HUD disposes of the forms shortly after extracting certain data for analyses. Consequently, we analyzed 6,035 section 236 tenant recertification forms that were on file at HUD headquarters from March 24, 1976, to March 31, 1976. These recertifications were made during calendar year 1976 at projects in 43 States and the District of Columbia.

Our analysis showed that the recertifications resulted in a change in rents charged for about 24 percent of tenants. For 1,248 tenants, or 21 percent, rents increased a total of \$21,500 a month, while for 197 tenants, or about 3 percent, rents decreased a total of \$2,700 a month.

These changes in rents represent an average net increase of about \$3 a month for each of the 6,035 tenants whose recertifications were included in our analysis.

The following table summarizes the results of our analysis.

<u>Rents charged</u>	<u>Number of tenants recertified</u>	<u>Percent of tenants</u>	<u>Average monthly increase or decrease(-)</u>	<u>Range of monthly increase or decrease(-)</u>
Increased	1,248	21	\$17	\$ 0.27 to 130
Decreased	197	3	-14	-0.18 to -75
Remained the same	<u>4,590</u>	76		-
Total	<u>a/ 6,035</u>		3	-75 to 130

a/An additional 174 recertification forms were not included in our analysis because they were not properly completed.

If the average increase of \$3 per month as a result of recertification were applied to the 607 tenants at the 15

projects we examined, whose income recertifications were made late or not made at all, we estimate that rents were underpaid by about \$13,800 from the date the tenant was scheduled to be recertified to June 30, 1974. Under the excess rental provisions in effect at that time, these funds would have been returned to the Federal Government to be available to reduce program appropriation requests.

As discussed on page 5 of this report, we believe that our findings on income recertifications are applicable to section 236 projects nationwide. Also, the nationwide effect of income recertifications on the Federal Government and rents charged tenants is substantial.

Because we were unable to select a statistically valid sample, the effect of income recertifications nationwide could not be determined with precision. However, the following illustrates the potential nationwide effect of income recertifications on the Federal Government and rents charged tenants on the basis of the best information available.

As of March 31, 1976, HUD was responsible for overseeing 3,601 section 236 projects, containing about 400,000 units. Our analysis of HUD statistics on 181,517 certification and recertification forms for the 12-month period ended September 30, 1975, showed that 32 percent of the forms were recertifications. The remainder presumably either moved into the project during the year or were already paying market rent, in which case recertification is not required.

By applying the 32 percent to the approximately 400,000 section 236 units, we estimate that about 128,000 tenants require recertification annually. Based on the results of our analysis of the impact of recertification on tenants' incomes as shown on page 8, we estimate that the rents of about 21 percent, or 26,880 tenants, would increase by an average of \$17 a month, or a total of about \$457,000 a month. The rents of about 3 percent, or 3,840 tenants, would decrease an average of \$14 a month or a total of about \$53,760 a month, and the rents of 76 percent, or 97,280 tenants, would remain unchanged.

The 32-percent estimate of section 236 tenants requiring recertification each year may be lower than the actual number because

--the estimate is based on analysis of HUD certification and recertification forms available at HUD headquarters and was not adjusted to include some projects that do not recertify any of their tenants as was the case for 4 of the 15 projects in our review and

--the percentage of tenants requiring recertification was 47 percent for 6 of the 15 projects in our review where we obtained data on the total number of recertifications made.

As discussed previously, these changes in tenant rental charges could also affect the amount of excess rents remitted to HUD. Increases in rents paid by tenants could increase the amount of excess rents to be remitted to HUD and decreases in rents could reduce the amount of excess rents to be remitted.

Reasons for late or no
income recertifications

We found that income recertifications were made late or were not made at all because

- project owners did not begin the recertification process in time so that all the required documents could be received and reviewed and the rent change put into effect within the required time frame;
- tenants and/or employers delayed in furnishing income data;
- project owners misinterpreted the HUD requirement to annually recertify a tenant's income (previously HUD required biennial recertifications);
- project owners were concentrating on other aspects of management, such as collecting delinquent rents and improving the project's physical appearance; and
- project personnel were inadequately trained for obtaining recertifications.

HUD regulations require project owners to annually recertify the incomes of all tenants receiving reduced rents. Project owners receive a percentage of gross rent receipts to carry out various project management activities, including recertification of tenant incomes.

RENTS CHARGED MAY BE IMPROPER
DUE TO INCOMPLETE INCOME DATA

Project owners did not verify or use all income data available in determining the amount of tenant income to be used in computing tenant rents. As a result, project owners either charged tenants less rent than required or they did not have adequate assurance that tenants were being charged

proper rents. In addition, less excess rents were remitted to HUD than should have been.

HUD instructions require that the tenant's initial rent payment and the annual adjustment be based on an estimate of the income the tenant expects to earn during the next 12 months. The estimate is to be based on income data--prior year's earnings and current rate of pay--furnished by the tenant and verified by the various sources of income, such as an employer or the welfare agency. In estimating a tenant's expected income, the project owner must consider all income, including overtime and bonuses, and use all the data obtained.

The project owner is to confirm the income data--both the prior year's income and the current rate of pay--furnished by the tenant by obtaining a written verification from the source of income. The owner may do this by having the employer complete and return a form letter or by having the tenant request the employer to furnish the necessary data. Regardless of the technique used, the owner is responsible for obtaining complete and reliable data.

We reviewed 554 income determinations at 6 of the 15 projects--all that were made at these projects during fiscal year 1974--to determine if the project owners complied with HUD's requirements in computing tenant rental payments. Contrary to HUD's requirements, in 325, or about 59 percent, of the 554 income determinations reviewed, project owners either did not verify the prior and current years' income or failed to use all verified income data in computing rental payments. We found that:

- 289 of the income determinations were based on incomplete data; either the current or prior year's income, or both, were not verified.

- 36 of the income determinations contained complete income data, but it was not used by project owners in estimating tenants' expected incomes.

The number of income determinations for which project owners failed to verify data either on current or prior year's income or both are shown below:

<u>Type of data</u>	<u>Number of income determinations</u>
Current earnings not verified	6
Prior year's earnings not verified	254
Both current and prior year's earnings not verified	<u>29</u>
	<u>289</u>

For 36 income determinations reviewed at 6 projects, complete income data had been obtained, but project owners did not use all the data in computing the tenant's rent. In some instances project owners used only tenants' current incomes without considering available data on prior year's incomes which indicated that tenants' incomes were higher because they received overtime, shift premiums, or bonuses. In other instances project owners used only prior year's incomes even though such incomes were lower than tenants' current incomes. In addition, project records did not always indicate, as required by HUD instructions, the reasons for the differences between tenants' current incomes and prior year's incomes or why the project owners used the lower income figures in determining rental charges.

We recomputed the rents that the 36 tenants should have paid had all the income data available in project owners files been used. On the basis of this recomputation the rent paid by 26 tenants was incorrect. Our recomputation showed that 25 tenants paid about \$4,830 less rent during fiscal year 1974 than they should have paid and 1 tenant paid about \$30 more rent than he should have. Our recomputation indicated that 10 tenants were paying correct rents even though all data was not used in computing their rents. These tenants were already paying either the maximum or minimum rent allowable for the project and the use of complete income data in our recomputation did not result in a large enough change in the tenants' incomes to affect rents charged.

For example, effective September 1973, the rent for a tenant at one project was established at \$42 a month as a result of the required annual recertification of his income. The project owner computed the adjusted rent using the tenant's current basic rate of pay of \$4.51 an hour or \$782 a month. However, data obtained from the tenant's employer by the project owner showed that the tenant's current income was about \$917 a month. This difference represented a cost of living allowance and a shift differential that the tenant received in addition to the basic rate of pay. HUD regulations require the project owner to use all current income-- the \$917 a month--in computing the rental rate. Because

this tenant's rent was computed using \$782 a month as income, the tenant paid \$320 less rent during fiscal year 1974 than required and excess rents of a like amount were not remitted to HUD.

The project owner stated that he used only the base rate of pay in determining the tenant's income because he believed that the cost of living allowance and the shift differential were not guaranteed by the tenant's employer.

Reasons for not obtaining or
using all income data

On the basis of our review at the six projects and discussions with project officials responsible for making income determinations, we identified the following reasons why incomplete income data was used in determining tenant's incomes:

- Two project owners used only tenants' current base pay because (1) one owner said that he had a policy of not requesting prior year's income in recertifying tenant's income since a tenant's current income provided a simple, uniform method for his staff to use and (2) another owner said that he was reluctant to use other than current income because prior year's income included such items as overtime, shift differential, or bonuses which were not guaranteed by an employer as a part of future income and therefore difficult, in his opinion, to use in estimating income for the next 12 months.
- Two project owners usually accepted whatever income data the tenant furnished and did not obtain complete verification from employers of either current or prior year's income or both. One project owner said he followed this practice because he believed that rigid enforcement of HUD's requirements could result in increased rents which would cause tenants to move from the project and bring about the possible default of the project. The other project owner said he did not want to antagonize the tenants by questioning the income data furnished by them.
- Two project owners usually obtained and verified tenants' current and prior year's income, except when a tenant had just recently started a job with a new employer. When this occurred the project owners said they did not verify the tenant's prior year's income from the previous employer.

SIMILAR DEFICIENCIES NOTED BY HUD
AT OTHER 236 PROJECTS

Many deficiencies similar to the ones we discuss in this report on income recertifications at section 236 projects were also identified at other section 236 projects in audit reports issued by HUD's Office of Inspector General and by HUD's field offices as a result of their onsite reviews of section 236 projects.

From January 1973 through October 1975, HUD's Office of Inspector General issued 19 audit reports on section 236 projects located in 11 States which identified deficiencies in income recertifications. The deficiencies identified in HUD's reports included

- tenant rental payments were not computed in a timely manner for 154 tenants;
- inadequate verifications of tenants' income data were made for 113 tenants, including current income of tenants not always verified; and
- 8 of the 19 projects did not have adequate procedures for verifying tenants' incomes in that, for example, discrepancies between income recertification and verification forms were not resolved.

We sent a questionnaire to the 76 HUD field offices responsible for overseeing section 236 projects to obtain, among other things, information on the results of their onsite reviews of income recertifications at section 236 projects. Of the 76 field offices responding, 54 offices, or 71 percent, identified inadequate income verifications and/or late recertifications as problems.

INADEQUATE OVERSIGHT OF PROJECTS

In carrying out their responsibility for overseeing section 236 projects, HUD field offices are required to make onsite reviews of projects within 6 months after a project is available for occupancy. After the initial review, field offices are required to make onsite reviews once a year. During these reviews, HUD's field staff is required to review in detail at least 15 percent of the certifications--initial determination by project owners of the amount of rent charged tenants--and recertifications to determine if project owners

- made required recertifications of tenants' incomes and computations of rent on a timely basis and

--obtained, verified, and used complete income data in determining rental rates for tenants as part of the certification or recertification process.

Of the 76 offices responding to our questionnaire, 54, or 71 percent, stated that onsite reviews were almost always an effective method of monitoring section 236 projects. However, the 76 field offices also responded that they had not made about 58 percent of the required onsite reviews of section 236 projects during fiscal year 1974. Although these offices were required to make reviews at about 2,950 program projects during fiscal year 1974, they stated that they had not made about 1,700 of the reviews.

To determine why HUD's field offices were not making the required onsite reviews, we obtained data from each of the 76 field offices on the number of staff-days assigned during fiscal year 1974 for onsite reviews of section 236 projects. In addition, we obtained estimates on the time spent for onsite reviews from 10 HUD field offices that had made a large number of reviews during fiscal year 1974 since HUD had not developed data on the average length of time needed to make such a review. Our analysis of the data obtained from the 10 HUD field offices showed that onsite reviews averaged about 2 staff-days for each project.

However, for the 25 HUD field offices having the largest number of section 236 projects to review, the data obtained in our questionnaire showed that 23 either did not assign or did not have sufficient staff to make onsite project reviews. The staff assigned to make such reviews by 16 of the 23 field offices ranged from no staff-days assigned at 2 offices to 1 staff-day for each project requiring review. Also, 8 of the 23 offices stated in response to our questionnaire that they needed additional staff to make all required onsite reviews of section 236 projects. For example, an official of one HUD field office that made only 11 percent of the required onsite reviews stated that:

"The primary problem in monitoring the section 236 program is lack of adequate staffing. There is currently one staff member dealing with occupancy and the majority of time is required for the Rent Supplement Program rather than 236. Additional manpower is critically needed in order to monitor this program effectively."

HUD's 23 field offices were responsible for making onsite reviews at about 1,800 section 236 projects during fiscal year 1974, or about 61 percent of the programs' projects requiring review nationwide. These offices had not made onsite reviews at about 1,410 of the 1,800

projects, or 78 percent of the projects requiring review. The 1,410 project reviews that were not made by these offices accounted for about 82 percent of the required reviews that were not made by HUD field offices nationwide during fiscal year 1974.

Discussions in March 1976 with HUD officials in the three area offices visited during our review showed that these offices were still not making all required onsite reviews. During calendar year 1975, these offices had reviewed only 41 section 236 projects out of a total of 331 projects that they were required to review. These officials stated that they still did not have sufficient staff to make all the required onsite reviews.

CONCLUSIONS

Numerous weaknesses still exist in the way section 236 project owners carry out their income recertifications. Also, HUD has not effectively monitored income recertifications at projects to insure that they are carried out in conformance with HUD requirements and in a manner which insures that proper rents are charged tenants in the projects and excess rents are remitted to the Federal Government.

There is a need for (1) HUD field offices to make the required annual onsite reviews of section 236 projects and (2) HUD to emphasize to project owners the need to comply with HUD requirements for obtaining timely income recertifications and using complete income data when recomputing tenant rents. Also, since HUD has made little progress in insuring that proper rents are charged tenants, HUD needs to explore further courses of actions that it can take to insure that section 236 project owners comply with its requirements.

RECOMMENDATIONS

We recommend that the Secretary of HUD:

- Implement an effective program, including employment of sufficient staff, to make the required annual onsite reviews of section 236 projects to evaluate owners practices for obtaining income recertifications and for recomputing tenant rents.
- Reemphasize to section 236 project owners the importance of complying with HUD requirements for obtaining timely income recertifications and using complete income data in recomputing tenant rents.

--Explore further courses of actions that can be taken to insure that section 236 project owners comply with HUD procedures.

AGENCY COMMENTS AND OUR EVALUATION

In commenting on our report (see app. I), HUD concurred with the general nature of our findings concerning improper recertifications and/or verifications being made by management agents and owners at section 236 projects and that improvements are needed in that area. HUD stated that, to alleviate the staffing problem at field offices, it has included 148 additional loan management field positions in the budget request for fiscal year 1977. HUD stated that these additional positions, if approved, will provide sufficient personnel to make the annual onsite reviews on a timely basis. In September 1976 a HUD official informed us that the request for increased field staff was approved.

HUD also stated that it will prepare a notice to the field office directors advising them to instruct section 236 project owners of the importance of complying with HUD requirements for obtaining timely income recertifications and using complete income data in recomputing tenant rents.

We believe that project owners' compliance with HUD requirements for recertification and verification of income should be improved if HUD effectively utilizes its increased field staff to make the required annual onsite reviews of section 236 projects and project owners are instructed on the importance of compliance with HUD requirements.

We believe, however, that in view of the continuing nature of the problems discussed in this report (see pp. 3 to 4), HUD should periodically evaluate the field offices' performance of the required annual onsite reviews.

With regard to our recommendation that HUD explore further courses of action to insure that section 236 projects owners comply with HUD procedures, HUD stated that in implementing another program--section 8--which will benefit subsidized projects, particularly section 236 projects, the field offices must determine that the applicable occupancy requirements for the project are being met. Any section 236 project owner not in compliance with the recertification requirements would therefore be denied the benefits of section 8 assistance.

HUD stated further that it intends to emphasize to field office personnel that failure by the project owner to comply with HUD's recertification requirements is grounds for

termination of the management contract. HUD stated also that it will continue to evaluate various methods of insuring compliance with its requirements.

We believe that the foregoing proposed actions, if properly implemented, in addition to the other HUD planned actions already discussed, should result in improved compliance by project owners with HUD requirements for income recertification and verification.

CHAPTER 3

IMPOUNDMENT OF OPERATING SUBSIDY FUNDS

As of May 31, 1976, the Department of Housing and Urban Development had about \$47.2 million in its Rental Housing Assistance Fund which consisted of excess rents paid by tenants residing in section 236 projects and interest earned on the excess rents. Until August 9, 1976, when HUD's fiscal year 1977 appropriation was signed into law, the only purpose for which moneys from this fund could be used under Federal law was for the payment of operating subsidies to section 236 projects; HUD has not implemented the operating subsidy program. We notified the Congress on July 7, 1976, of our intent to file suit against HUD to require the release of budget authority for the operating subsidy program.

Operating subsidy payments were authorized by section 212(2) of the Housing and Community Development Act of 1974 to assist owners of section 236 projects in meeting the higher project operating costs resulting from increased property taxes and utility costs.

HUD's Office of General Counsel has determined that excess rental collections can be used only to pay operating subsidies. HUD, however, has decided not to implement the operating subsidy provision of the 1974 act. The Secretary of HUD, in testimony before the Senate Committee on Banking, Housing and Urban Affairs on November 5, 1975, stated that such subsidies are not an adequate solution to multifamily housing problems because the subsidies represent an open-ended financial commitment by HUD which could reach astronomical proportions.

As of May 31, 1976, the balance in the fund was about \$47.2 million, and a HUD official estimated that the balance would increase to about \$55 million by the end of fiscal year 1977.

HUD plans to spend about \$18 million from the fund to compensate owners for excess rent payments erroneously remitted to HUD before June 1975. As discussed on page 2 of this report, HUD revised the method for calculating excess rents in June 1975 to make it clear that project owners could deduct rental collection losses in arriving at the amount of excess rent to remit to HUD. HUD told its field offices on June 28, 1976, to notify the project owners that they may start to apply for the refunds. However, a court order was issued on July 30, 1976, prohibiting HUD from making such refunds.

In addition, in fiscal year 1976 HUD, pursuant to law suits filed by some section 236 project owners, was directed by court order to make payments from the fund for the payment of utility and tax increases at certain section 236 projects. HUD estimates that such court-ordered payments amounted to about \$300,000 during fiscal year 1976.

In June 1976 the courts ordered HUD to implement the operating subsidy program for all section 236 projects. However, on June 16, 1976, HUD appealed this court order. An official of HUD's Office of General Counsel said that the courts will consider concurrently both the refund issue and the issue on implementation of the operating subsidy program.

In June 1976 a HUD official said that HUD has no plans for using moneys from the Rental Housing Assistance Fund for payments of operating subsidies not mandated by the courts.

OUR ACTIONS

Section 1015(a) of the Impoundment Control Act requires the Comptroller General to report to the Congress whenever he finds that the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any other officer or employee of the United States has ordered, permitted, or approved the establishment of a reserve or deferral of budget authority and the President has failed to transmit a special message with respect to such reserve or deferral.

On April 20, 1976, we reported to the Congress that HUD's actions constituted a de facto rescission proposal of HUD budget authority available for the operating subsidy program that should have been, but was not, reported to the Congress by the President. The report had the same legal effect as a rescission message transmitted by the President.

Section 1012(b) of the act provides:

"(b) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.--Any amount of budget authority proposed to be rescinded or that is to be reserved as set forth in such special message shall be made available for obligation unless, within the prescribed 45-day period, the Congress has completed action on a rescission bill rescinding all or part of the amount proposed to be rescinded or that is to be reserved."

The statutory 45 days of continuous congressional session expired on June 16, 1976.

HUD disagreed with our report that the nonuse of funds collected as excess rents constitutes a de facto rescission proposal of the HUD section 236 operating subsidy budget authority. In letters dated May 14, 1976, from HUD's Under Secretary to the President of the Senate and the Speaker of the House, the Under Secretary stated that, in essence, HUD's position is that funds contained in the Rental Housing Assistance Fund are cash only and as such are for liquidating contractual commitments but not for making new contractual commitments.

We disagree with HUD's position, and in a July 7, 1976, letter (see app. II) to the Congress, we provided notification of our intent to bring suit against HUD to require the release of budget authority on the basis of circumstances existing at that time.

Section 1016 of the Impoundment Control Act empowers the Comptroller General to institute a civil action in the U.S. District Court for the District of Columbia to require the release of budget authority that is to be made available for obligations pursuant to section 1012(b) above. Section 1016 also provides that, at least 25 days before the initiation of such a suit, the Comptroller General file with the Congress an explanatory statement of the circumstances giving rise to the action contemplated. Our July 7, 1976, letter represented the filing of such a statement.

The Senate Committee on Banking, Housing and Urban Affairs on April 12, 1976, in its report on S.3295 on the Housing Authorization Act of 1976 (Public Law 94-375), approved August 3, 1976, expressed its view on the operating subsidy program as follows:

"The reserve is required under Section 236(g) of the Act to be used for additional operating assistance payments under the terms specified in Section 236(f)(3). The Committee is concerned that HUD has not yet implemented this provision of the 1974 Act."

A provision of the Department of Housing and Urban Development--Independent Agencies Appropriation Bill, for fiscal year 1977, Public Law 94-378 dated August 9, 1976, contained a provision authorizing HUD to disperse the moneys in the fund for other housing programs. The Director of HUD's Office of Budget advised us on August 13, 1976, that HUD would transfer the moneys from the fund shortly after October 1, 1976 (the beginning of the new fiscal year). On

August 30, 1976, we confirmed with the Director of Budget's office that HUD still planned to transfer the moneys shortly after October 1, 1977.

If HUD transfers moneys from the Rental Housing Assistance Fund for use in the other housing programs, a suit will not be necessary to require the release of the budget authority to the operating subsidy program. The Appropriation Act would not, however, according to an official in HUD's Office of General Counsel, have an impact on the court's order that HUD implement the operating subsidy program.

CHAPTER 4

SCOPE OF REVIEW

We reviewed policies, procedures, and practices for income recertifications of tenants residing in section 236 projects to determine how well project owners were making recertifications and the effectiveness of the Department of Housing and Urban Development's monitoring of this activity.

Our review was made at HUD's headquarters in Washington, D.C., and at HUD's field offices in Detroit, Philadelphia, and San Francisco. These offices were responsible for managing a total of 304 section 236 projects which represented 9 percent of the 3,446 section 236 projects in operation at June 30, 1974.

We selected 15 projects--5 in each of the 3 field offices reviewed--containing 2,050 units which had tenants due for recertification before June 30, 1974. The projects were also selected to obtain projects owned by different firms.

At 6 projects, 2 in each of the field offices, we made a detailed analysis of the records for all 345 tenants required to be recertified in the projects during fiscal year 1974 and reviewed 554 income determinations--recertifications and certifications--completed during this period. For 9 projects, 3 in each field office, we tested 405 tenant records for which recertifications were required.

We interviewed key project management personnel and examined applicable records, procedural manuals, certifications, recertifications, supporting documentation, and other documents maintained by the project owners.

In addition, we used a questionnaire to obtain information from all 76 HUD area and insuring offices on their practices of monitoring and reviewing section 236 projects. We verified the questionnaire responses of the three field offices while reviewing their files, records, and other documents.

We also analyzed HUD's Office of Inspector General audit reports dealing with recertification practices followed by owners of section 236 projects.



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING—FEDERAL HOUSING COMMISSIONER

July 12, 1976

IN REPLY REFER TO:

Mr. Henry Eschwege
Director
Resources and Economic Development
Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Eschwege:

The Secretary has asked me to respond to your letter of March 30, 1976, requesting the Department's comments on (1) your draft of a proposed report to the Congress entitled, "Little Progress Made In Insuring That Proper Rents Are Charged Under The Section 236 Rental Assistance Housing Program," and (2) the question you raise re Chapter 3 of the report as to whether HUD's nonuse of funds collected as excess rents to implement the operating subsidy program constitutes an unreported impoundment covered by the Impoundment Control Act of 1974.

I reviewed the report and concur with the general nature of the findings concerning improper recertifications and/or verifications being performed by Section 236 owners/management agents, and that improvements are needed in that area. I offer the following comments with respect to the specific recommendations made to correct the conditions encountered as contained in Chapter 2 of the report (and in the "Digest" thereof):

Recommendation No. 1:

The Secretary of HUD should implement an effective program, including employment of sufficient staff, to make the required annual visits to Section 236 projects to evaluate owners' practices for obtaining income recertifications and for recomputing tenant rents.

Reply:

We believe that the outstanding instructions and procedures which provide for annual management reviews of each Section 236 project within each field office's jurisdiction are sufficiently clear and detailed to insure effective control if followed. We recognize, however, that staff constraints in individual field offices may have limited the usefulness of this review in the past, and have, therefore, included 148 additional loan management field positions in the budget request for fiscal year 1977, as a means of alleviating this problem. It is anticipated that these additional staff positions, if approved, will provide sufficient personnel to perform the necessary reviews on a timely basis.

Recommendation No. 2:

The Secretary of HUD should reemphasize to Section 236 project owners the importance of complying with HUD's requirements for obtaining timely income recertifications and using complete income data in recomputing tenant rents.

Reply:

We are in agreement with this recommendation and will prepare an appropriate notice to our Area/Insuring Office Directors advising them to so instruct Section 236 project owners.

Recommendation No. 3:

The Secretary of HUD should explore further courses of action that can be taken to insure that Section 236 project owners comply with HUD procedures,

[See GAO note 1, p. 27.]

Reply:

The recent implementation of the Office of Loan Management Section 8 set-aside program of 100,000 units for projects with mortgages insured or held by HUD will provide a valuable tool in assuring that project owners comply with our recertification requirements. We estimate that the sizeable majority of these units will be placed in subsidized projects, particularly those insured under

Section 236 or 221(d)(3) BMIR. Prior to approving any owner's application for this Section 8 set-aside, the field office must determine that the applicable occupancy requirements for the program under which the project is insured are being met. Any Section 236 owner not in compliance with HUD's recertification requirements would, therefore, be denied the benefits of Section 8 assistance. Since we anticipate that demand for this additional assistance will be greatest in the Section 236 program, we believe that the ability to withhold Section 8 units from projects which are in violation of our recertification procedures will be a most effective means of obtaining compliance.

Additionally, we intend to emphasize to our field office personnel that compliance with HUD's recertification requirements is a responsibility of the management agent, failure of which to follow is grounds for termination of the management contract by the appropriate HUD field office.

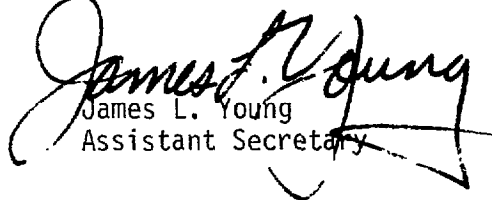
[See GAO note 1, p. 27.]

We will, however, continue to evaluate various methods which could be utilized as means of insuring compliance with our requirements.

With respect to the status of HUD's plans for the use of funds collected as excess rents as discussed in Chapter 3 (and in the "Digest), Comptroller General Staats, on April 20, 1976, wrote the Speaker of the House and the President of the Senate reporting a rescission of HUD budget authority, which he claimed should have been reported to the Congress pursuant to the provisions of the Impoundment Control Act of 1974. The enclosed letter dated May 14, 1976, from HUD's Under Secretary John Rhinelander to the Speaker of the House (with an identical letter being sent to the President of the Senate) sets forth HUD's reasoning in disagreeing with the Comptroller General's conclusion. In essence, the

Department's position is that funds contained in the Rental Housing Assistance Fund represent cash only, which have been returned to the Department by Section 236 project owners where excess rents have been collected from tenants. As cash, these funds are for liquidating contractual commitments and not for making new contract commitments. Therefore, the Secretary may only utilize those funds to the extent that contract authority is available. However, the Secretary has made a policy decision to use all available contract authority for other authorized purposes, including bona fide commitments, deep subsidies, and amendments to prior contracts.

Sincerely,


James L. Young
Assistant Secretary

Enclosure [See GAO note 2.]

- GAO note:
1. Material has been deleted because of changes to final report.
 2. Enclosure has been deleted because it was not relevant to issues discussed in this report.



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

July 7, 1976

B-115398

Speaker of the House
President of the Senate

The purpose of this letter is to inform you of the status of budget authority, proposed to be rescinded pursuant to the Impoundment Control Act of 1974, Pub. L. 93-344, for which the Congress did not complete action before the relevant 45-day period of continuous session, which expired on June 16, 1976. This letter also constitutes the statement required by section 1016 of the Impoundment Control Act in order for the Comptroller General to initiate a civil action to require the release of budget authority.

Section 212 of the Housing and Community Development Act of 1974, Pub. L. 93-383, created an operating subsidy program. This program provided for making payments to assist owners of rental housing projects, under section 236 of the National Housing Act, to meet higher operating costs resulting from increased property taxes and utility costs. The 1974 Act provided that these payments be made from a reserve fund--the Rental Housing Assistance Fund--comprised of excess rents paid by tenants residing in section 236 projects and interest earned by the Fund.

As of May 31, 1976, the balance in the Fund was approximately \$47.2 million. The Department of Housing and Urban Development estimates this balance may increase to approximately \$55 million by the end of Fiscal Year 1977. HUD estimated that about \$18 million from the Fund would be used to compensate project owners for excess rent payments erroneously remitted to HUD prior to June 1975. This action, however, may not be implemented due to a recently initiated court suit in which the plaintiffs are seeking to enjoin HUD from making its planned remittances. HUD estimates that \$300,000 will be used to make court-ordered payments under the operating subsidy program to those section 236 project owners who successfully sued HUD to require implementation of the program as regards those projects. HUD officials have informed us that they have no plans to utilize the fund for any operating subsidy program payments that are not mandated by court order.

B-115398

Section 1015(a) of the Impoundment Control Act requires the Comptroller General to report to the Congress whenever he finds that the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States or any other officer or employee of the United States has ordered, permitted, or approved the establishment of a reserve or deferral of budget authority and the President has failed to transmit a special message with respect to such reserve or deferral.

On April 20, 1976, I submitted a report to the Congress with respect to a rescission of \$26.3 million of Department of Housing and Urban Development budget authority available for the operating subsidy program that should have been, but was not, reported to the Congress by the President. My report had the same legal effect as a rescission message transmitted by the President.

Section 1012(b) of the Act provides:

"(b) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.--Any amount of budget authority proposed to be rescinded or that is to be reserved as set forth in such special message shall be made available for obligation unless, within the prescribed 45-day period, the Congress has completed action on a rescission bill rescinding all or part of the amount proposed to be rescinded or that is to be reserved."

The statutory 45 days of continuous congressional session for the Congress to complete action on a rescission bill involving this budget authority expired on June 16, 1976. Pursuant to section 1012(b) of the Act this budget authority was required to be released for obligation by the President on that date. We have been informed by the Office of Management and Budget that the budget authority involved will not be released.

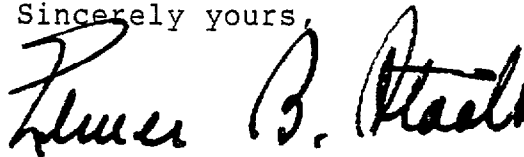
Section 1016 of the Impoundment Control Act empowers the Comptroller General to institute a civil action in the United States District Court for the District of Columbia to require the release of budget authority that is to be

B-115398

made available for obligation pursuant to section 1012(b), above. Section 1016 also provides that, at least 25 days before the initiation of such a suit, the Comptroller General file with the Congress an explanatory statement of the circumstances giving rise to the action contemplated. On the basis of the present circumstances, we contemplate bringing such an action.

We would point out, however, that certain provisions of the Department of Housing and Urban Development--Independent Agencies Appropriation Bill, 1977, as passed by the House, would disperse the Fund to a number of other housing programs. Thus, it may develop that suit will not be necessary to require the release of the budget authority to the operating subsidy program. Nevertheless, in light of the uncertainty of the appropriations process and in order to avoid belated need to accommodate the statutory 25-day waiting period, we are notifying the Congress of our intention to bring suit on the basis of the present situation.

Sincerely yours,

A handwritten signature in cursive script that reads "Luther B. Stacks". The signature is written in dark ink and is positioned below the typed name.

Comptroller General
of the United States

PRINCIPAL OFFICIALS OF THE
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
RESPONSIBLE FOR ADMINISTERING
ACTIVITIES DISCUSSED IN THIS REPORT

	<u>Tenure of office</u>	
	<u>From</u>	<u>To</u>
SECRETARY OF HOUSING AND URBAN DEVELOPMENT:		
Carla A. Hills	Mar. 1975	Present
James T. Lynn	Feb. 1973	Feb. 1975
George W. Romney	Jan. 1969	Feb. 1973
 ASSISTANT SECRETARY FOR HOUSING-FEDERAL HOUSING COMMISSIONER (note a):		
James L. Young	June 1976	Present
 ASSISTANT SECRETARY FOR HOUSING MANAGEMENT:		
James L. Young	Mar. 1976	June 1976
Robert C. Odle, Jr. (acting)	Jan. 1976	Mar. 1976
H. R. Crawford	Apr. 1973	Jan. 1976
Abner D. Silverman (acting)	Jan. 1973	Mar. 1973
Norman V. Watson	July 1970	Jan. 1973
 INSPECTOR GENERAL:		
James B. Thomas, Jr.	Sept. 1975	Present
Charles L. Dempsey (acting)	May 1975	Sept. 1975
Charles G. Haynes	Jan. 1972	May 1975

a/On June 14, 1976, HUD combined the functions of the Assistant Secretaries for Housing Management and for Housing Production and Mortgage Credit under a single Assistant Secretary for Housing-Federal Housing Commissioner.

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