



United States General Accounting Office
Washington, DC 20548

Office of the General Counsel

B-286417

October 16, 2000

The Honorable Phil Gramm
Chairman
The Honorable Paul S. Sarbanes
Ranking Minority Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable James A. Leach
Chairman
The Honorable John J. LaFalce
Ranking Minority Member
Committee on Banking and Financial Services
House of Representatives

Subject: Department of Housing and Urban Development: Fair Market Rents:
Increased Fair Market Rents and Higher Payment Standards for Certain
Areas

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Housing and Urban Development (HUD), entitled "Fair Market Rents: Increased Fair Market Rents and Higher Payment Standards for Certain Areas" (RIN: 2501-AC75). We received the rule on October 2, 2000. It was published in the Federal Register as an interim rule on October 2, 2000. 65 Fed. Reg. 58870.

The interim rule implements HUD's new fair market rent (FMR) policy. The new FMR policy targets relief to areas where higher FMR's are needed to help families, assisted under HUD's Housing Choice Voucher Program as well as other HUD programs, find and lease decent and affordable housing.

Enclosed is our assessment of HUD's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that HUD complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO

evaluation work relating to the subject matter of the rule is Stan Czerwinski,
Director, Physical Infrastructure. Mr. Czerwinski can be reached at (202) 512-7631.

Kathleen E. Wannisky
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Enclosure

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

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
ENTITLED
"FAIR MARKET RENTS: INCREASED FAIR MARKET RENTS AND
HIGHER PAYMENT STANDARDS FOR CERTAIN AREAS"
(RIN: 2501-AC75)

(i) Cost-benefit analysis

HUD prepared an economic analysis that estimates the increased level of transfers that would result from implementation of the interim rule. The economic analysis measures transfers because in economic terms, HUD's tenant-based program provides transfers from the general population to program participants. Changes in the rules governing these transfers do not generate costs or benefits in economic terms. The actual increase in transfers in the year with the highest increase (year 5 of the 5 years studied) is \$174 million, or a 1.8 percent of total program transfers that year.

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

The Secretary of HUD has certified that the interim rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The interim rule will not impose an intergovernmental or private sector mandate, as defined in title II, of over \$100 million in any one year.

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

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

While HUD normally uses notice and comment procedures in accordance with its regulations of rulemaking, 24 C.F.R. part 10, the Secretary has found "good cause" under 24 C.F.R. 10.1 to omit advance notice and public participation and issue this rule on an interim basis. Because of the shortage of affordable housing for program participants, HUD has found that it would be contrary to the public interest to delay the implementation of this rule to obtain comments. However, HUD is providing a 45-day comment period and the comments received will be addressed when the final rule is issued.

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

The interim rule does not contain any information collections that are subject to review and approval by the Office of Management and Budget under the Paperwork Reduction Act.

Statutory authorization for the rule

The interim rule is issued under the authority of 42 U.S.C. 1437c, 1437f, and 3535(d).

Executive Order No. 12866

The interim rule was reviewed and approved by the Office of Management and Budget as an “economically significant” regulatory action under the order.

Executive Order No. 13132 (Federalism)

The interim rule does not have federalism implications and would not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the order.