

**PUBLIC HOUSING REFORM AND VOUCHER SUCCESS:
PROGRESS AND CHALLENGES**



**METROPOLITAN POLICY PROGRAM
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EXECUTIVE SUMMARY

By the mid-1990s, a general consensus had emerged that in too many instances, public housing failed to provide quality, affordable housing to the nation's neediest families. The nation's worst public housing developments warehoused poor, minority families in isolated blocks of high-rises or overwhelming concentrations of low-rise buildings. The conditions of these developments had so corroded that they attracted drug and criminal activity. The management of public housing in many large cities had become abysmal, resulting in the long neglect of even the most basic building repairs and maintenance needs. Because of these and other factors, the best possible role models in public housing—working families—had mostly left.

While a series of incremental reforms were implemented in the 1990s, the biggest attempt to remake public housing came in 1998 – the year that Congress and the president enacted the Quality Housing and Work Responsibility Act. The act is the most comprehensive effort in the history of public housing to overhaul this program. It includes provisions to improve or replace public housing, reduce poverty concentration, promote family self-sufficiency, improve public housing management, and streamline the Section 8 voucher program. By including reforms to both the public housing and tenant-based voucher programs, the act affects approximately 3.3 million families.

This paper reviews the progress of these important federal housing reforms since 1998, including the latest actions reflected in the FY 2005 appropriations bill. It examines the extent to which the U.S. Department of Housing and Urban Development (HUD) and its local partners have implemented changes to transform the physical, social, and economic setting of public housing, improve its overall management, and enhance the voucher program. The paper also identifies outstanding concerns and ways in which HUD, Congress, and public housing authorities (PHAs) can ensure that the full intent of the act is carried out.

Overall, the paper finds that:

- **As a result of the federal reforms, the nation's worst public housing developments are largely being transformed into more attractive, better quality communities.** The act provided important tools to address the most deteriorated housing developments in the country, such as allowing local housing authorities to attract and leverage private and other non-public housing funds to modernize or replace developments, easing the rules for creating mixed-income communities, and facilitating the replacement or revitalization of severely distressed public housing. The act also gave local housing authorities greater flexibility to manage their housing portfolio, including eliminating the restrictive requirement that each demolished unit had to be replaced with a new one. While HUD's implementation of these measures varied greatly, HUD was prompt and effective in facilitating demolitions and awarding HOPE VI funds to PHAs to remake these developments. HUD also eventually allowed substantial mixed-finance activity and borrowing of capital funds. However, HUD has yet to implement some of the act's important measures to provide additional flexibility in

managing and leveraging public housing assets. Furthermore, Congress, supported by the administration, cut funding for HOPE VI in the past two years.

- **The act has helped reduce concentrations of poverty; however, it is less clear if the act directly improved the self-sufficiency of public housing residents.** The act reduced poverty concentrations by rebuilding distressed public housing at smaller-scales and providing displaced residents with vouchers to move into housing in the private marketplace. The act also called for swift implementation of new rent and income targeting provisions and the repeal of federal admissions preferences to reward work and allow admission of more working families into public housing. HUD met the implementation requirements, but PHAs struggled with the complexity of, and lack of training regarding, some of the rent provisions. Studies also showed that a much greater number of public housing residents were working during this period, but not that their incomes increased appreciably. Thus, these improvements in self-sufficiency may be more attributed to the then improving economy and welfare reform than to provisions of the act.
- **HUD's aggressive efforts to improve the management of the most troubled housing authorities have been effective; but the act's success in deregulating public housing management – with increased accountability – has been more mixed.** During this period, HUD worked closely with mayors, courts, and other local entities to dramatically improve the management of a number of prominent large-city housing authorities once deemed troubled. Many of these (such as in Chicago and Washington, DC) are substantially better managed today than they were a decade ago. But these efforts occurred largely independent of the act. In fact, HUD's implementation of the act's provisions to increase accountability and reward effective PHA management was uneven. For instance, the new performance evaluation system was mired in controversy and delay. The act's most demonstrative penalty for poor management—mandatory receivership—was not implemented. Several of the rewards for sound management were slow to be implemented, and thus the impacts are unclear. Alternative management mechanisms largely were not tried. And the regulatory requirements for rent calculations (e.g., earned income disregards), community service, and other provisions added more, not less, administrative burden. However, increased flexibility for PHAs to demolish and replace units, to select a broader mix of tenants, and to leverage funding to improve or replace their developments, was beneficial.
- **The public housing reform act succeeded in consolidating, and ultimately providing a sound basis for expanding, the Section 8 certificate and voucher programs; however, recent changes in voucher funding and administration jeopardize this progress.** The consolidation of the Section 8 certificate and voucher programs has resulted in a more streamlined, market-driven program that has been deemed more user-friendly by participating apartment managers. The act also authorized expansion of the rental voucher program. As a result of funding support, additional administrative flexibility, and accountability measures, the number of vouchers used by households increased by about 500,000. But confusion and uncertainty regarding fiscal year 2004 appropriations language

aimed at budgetary concerns and regarding HUD's administrative interpretations resulted in a drop last year in program use. In the FY 2005 appropriations bill, Congress adopted a spending formula that will create further challenges for meeting the voucher program's goals of serving as many families as possible, providing sufficient per-family subsidy to avoid excessive family rent burdens, reducing poverty concentrations, and serving the poorest of households.

- **Ultimately, Congress and HUD must embrace additional reforms and actions to further the goals and vision of the 1998 public housing reform act.** The next few years will be marked by budgetary constraints. Assuming that current funding levels for housing programs are generally maintained, there are three major areas where Congress and the administration can act. First, HUD must collect, analyze or release critical data that will enable better monitoring of the progress and impact of these important public housing and voucher reforms. For instance, little data is collected on the demolition and redevelopment of public housing units outside of HOPE VI, the status of relocated families, and the effectiveness of replacement vouchers. Second, HUD can do more to execute those aspects of the act that have yet to be implemented and expedite reform. This would mean completing regulations or guidance that would allow for the full range of tools for leveraging funds and facilitating mixed-income communities and would fully implement the system of management evaluation, rewards, and penalties. Also, HUD could provide adequate staff to carry out the act's initiatives and simplify requirements wherever possible. And finally, Congress must act to ensure that the original intent of the act is protected and improved upon. For instance, there must be continued, stable funding for HOPE VI to maintain the market and social improvements to urban neighborhoods and to ensure that relocated families receive more support. Also, the general goals of the rental voucher program must be preserved; any efforts to eliminate its rent-setting protections or income-targeting requirements should be rejected.

Over six years have passed since adoption of the landmark housing act to fundamentally revamp the way the federal government provides public housing and rental assistance to low-income and working families. This preliminary review shows that important strides have been made to correct the unintended mistakes of the past and to restore quality and dignity to the nation's affordable housing programs. The thoughtful reforms and tough compromises made in 1998 were neither perfect nor implemented perfectly, but they provided a basis for significant progress. Federal lawmakers, housing officials, and their local partners must protect and build upon the progress of these reforms, so that the families and individuals who must depend on our housing programs, and their communities, will continue to be better and more fully served.

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PUBLIC HOUSING REFORM AND VOUCHER SUCCESS: PROGRESS AND CHALLENGES

I. INTRODUCTION

The Quality Housing and Work Responsibility Act of 1998, otherwise known as the Public Housing Reform Act (the act),¹ constitutes the largest overhaul of the public housing and Section 8 voucher programs in their history. The two programs serve more than 3 million families and cost about \$20 billion annually, or almost 60 percent of the budget of the U.S. Department of Housing and Urban Development (HUD).²

The act was passed after slightly more than three years of intense congressional discussion and debate. Reflecting the depth of feeling regarding the need for public housing reform was the House of Representatives' partly symbolic proposal to repeal the underlying statute, the U.S. Housing Act of 1937, and begin anew.³ Even in the more moderate Senate, the act was called the "Public Housing Reform and Responsibility Act."⁴ Although the need for reform was clear, the substance of the reform was not. Many important issues had strong advocates with differing views that had to be reconciled.

After substantial discussion and compromise, including two months of secret issue-by-issue negotiations, Congress crafted and passed a final bill almost unanimously. The act was hailed by its sponsors as "an act that will change the face of public housing" (Sen. Connie Mack, R-FL); a "significant milestone in helping to meet the housing needs of this nation" (Sen. Paul Sarbanes, D-MD); and "the first major updating of our public housing laws since the Depression" (Rep. James Leach, R-IA).⁵

Enough time has elapsed since its passage in 1998 to assess its effectiveness. The war on terror pushed efforts to dramatically remake the nation's public housing and voucher system far below the radar screen. Yet, efforts remain to significantly change the thrust of the act's initiatives by cutting funding for important aspects of the public housing program (e.g., HOPE VI) and eliminating basic requirements that target assistance to extremely low-income families and that

¹ Title V of Public Law 105-276, 1112 Stat. 2518, approved October 21, 1998. Rather than listing individual cites each time a provision of the act is mentioned, the appendix chart describes the implementation of all the act's provisions.

² More exactly, for 2004, the amounts appropriated for HUD totaled \$36.8 billion, and the amounts appropriated in connection with public housing and vouchers totaled \$20.9 billion (with no adjustment made for a \$2.8 billion rescission expected to come from other sources).

³ See H.R. 2406, Passed by the House of Representatives May 9, 1996; H.R. 2, passed by the House of Representatives May 14, 1998.

⁴ S. 1260 was passed by the Senate January 10, 1996. S. 462 was passed by the Senate on September 26, 1997.

⁵ Quotes were assembled in U.S. Department of Housing and Urban Development, *A Report to the President: A Promise Being Fulfilled: The Transformation of America's Public Housing* (March 2000), p. 11.

ensure affordability for the poorest of those families (e.g., by instituting a block grant for Section 8 vouchers). Even farther from the headlines are the successes and failures of the programs under the new act, which are replete with lessons on how to improve efforts.

The act's intended reforms are critical to the health of many urban neighborhoods and to the economic and social prospects of low-income and working families. The importance of these reforms was reinforced in a 2004 election year report issued by two former HUD secretaries, Henry Cisneros and Jack Kemp, who wished to elevate the need for a visible national housing reform agenda.⁶ With their effort in mind, this paper aims to focus attention on the progress of public housing and voucher reform, and to better inform future decisions shaping these programs.

A. The History and Making of the Act

The act is a tumultuous chapter in the long history of the public housing and Section 8 tenant-based programs. Public housing, first authorized in 1937, is owned by more than 3,000 public housing authorities (PHAs), which are typically established by state law. Their boards of commissioners are largely appointed by local chief executives. The program has evolved from a Depression-era public works program that served predominantly working families who moved on after a few years, to a program serving families displaced by government activities, like urban renewal, in the 1950s, to one serving poorer and increasingly minority families who were more likely to become long-term public housing residents. The latter trend was accelerated as Congress capped rents in 1969 at 25 percent of family income (adjusted to recognize factors such as family size), thus ensuring affordability for the poorest families. In addition, legal and community pressures changed local admissions practices, opening housing up to more welfare recipients, single parents, and minority families.

Conditions were exacerbated with the growth in the 1940s, 1950s, and 1960s of large, densely configured, and in many cases, high-rise, "projects." These projects often were built on cheap and undesirable land, designed for racial segregation, and were not to compete with the private sector. Racial and social tensions, crime, unemployment, and social isolation among residents all increased greatly in the 1970s and 1980s.

The federal costs of public housing were limited by law for several decades to the cost of building the projects, with tenant rents covering operating costs. This was changed to provide for operating subsidies in 1969 when rents were capped, and in 1975 to provide for capital (modernization) subsidies. By the mid-1990s, annual federal operating and capital subsidy costs were about \$6 billion.

⁶ Henry G. Cisneros, Jack F. Kemp, Nicolas P. Retsinas, and Kent W. Colton, *Opportunity and Progress: A Bipartisan Platform for National Housing Policy* (Cambridge: Joint Center for Housing Studies of Harvard University, 2004).

In the Section 8 tenant-based assistance program, HUD, through PHAs, provides subsidies for families to rent privately owned apartments. This initiative grew steadily after its inception in 1974. The subsidies allowed families to select housing where they could afford it, rather than having their choices confined to government properties. As a result, the program avoided the same troubled history as public housing, even though the program served more families with children than public housing. In 1995, 68 percent of its households were families with children compared with 49 percent in public housing.⁷

Congressional attention to the tenant-based assistance programs in the mid-1990s largely focused on the difficulties of administering two separate but similar programs. The original “certificate program” required families generally to pay rent at 30 percent of their adjusted incomes (raised from 25 percent in 1981), and limited them to units within rent levels allowed by the program. The voucher program, created a decade later, provided families a subsidy equal to the difference between 30 percent of adjusted income and allowable program rents, but allowed them to spend additional funds to rent more expensive apartments. In addition to the challenges of administering two similar rental assistance programs were concerns about the level of poverty in the chosen neighborhoods. Reports also surfaced questioning the affordability of the voucher program for participant families, who in many cases were spending much more than 30 percent of their adjusted incomes to rent decent housing, and noting that a significant percentage of families could not find decent affordable housing even with a voucher.

By the mid-1990s, the public housing and tenant-based assistance programs constituted two of the three major federal rental assistance programs in the United States. The other program (called “assisted projects” in this paper and largely consisting of Section 8 new construction or substantial rehabilitation projects) directed assistance to privately owned developments under long-term contracts. These developments largely were commenced by the mid-1980s. Each of the three programs served in the range of 1.5 million families (see Table 1 for characteristics of families served by public housing and tenant-based assistance).

⁷ U. S. Department of Housing and Urban Development (HUD), “Fourth Annual Report to Congress on the Effects of Quality Housing and Work Responsibility Act of 1998” (Washington: November 2002), pp. 5, 6.

Table 1. Characteristics of Families Receiving Public Housing or Tenant-Based Assistance, mid-1990s⁸

	Public Housing (%)	Tenant-Based (%)
Household Type (1995)		
Elderly, no child	34	15
Nonelderly, disabled, no child	9	11
Other, no child	8	6
Families with children	49	68
Income Relative to Area Median (1997)		
30 percent or less	71	68
31 to 50 percent	21	23
51 to 80 percent	6	7
81% or higher	3	2
Largest Source of Income, Families with Children (1995)		
Work	31	36
Welfare	47	39
Other	21	25
Race and Ethnicity (1995)		
White, non-Hispanic	37	51
Black, non-Hispanic	47	33
Hispanic	14	13
Asian or Pacific Islander	2	2
Native American	1	1
Annual Unit Turnover Rate (1995)	13.7	14.5

Source: U.S. Department of Housing and Urban Development, "Fourth Annual Report to Congress on the Effects of the Quality Housing and Work Responsibility Act of 1998" (Washington: November 2002), pp. 5-6.

The conditions in some of the nation's largest and most dilapidated public housing projects were horrendous by the 1970s and 1980s. In 1980, the entire Boston Housing Authority was put into receivership by the state courts based on widespread substandard conditions in its housing. In 1989, Congress established a National Commission on Severely Distressed Public Housing to look into conditions at dilapidated developments and recommend solutions. In 1991, Alex Kotlowitz's gripping book *There Are No Children Here: The Story of Two Boys Growing Up in the Other America*, which followed two teenaged boys growing in a Chicago high-rise project amid gangs, crime, drugs, abject poverty, and isolation, received substantial attention in Washington and elsewhere.⁹ Although much of the nation's public housing did not resemble this situation, the image of the crime-ridden and deteriorating high rise spurred widespread calls for reform.

⁸ Ibid.

⁹ Alex Kotlowitz, *There Are No Children Here: The Story of Two Boys Growing Up in the Other America* (Doubleday, 1991).

Some state and city housing administrators improved the management and conditions of public housing during the 1980s and early 1990s, including Boston, which was removed from court receivership in 1989. Meanwhile, HUD began to track and focus on “troubled” PHAs, and Congress passed legislation in 1990 and 1992 that mandated a public housing management performance evaluation system for the first time and that provided funding to revitalize severely distressed housing.¹⁰ This latter program, named HOPE VI, provided large grants to physically and socially remake the worst public housing. It was enacted in the HUD appropriations act for fiscal year 1993, and renewed in subsequent appropriations acts.

Yet, by 1995, when Republicans assumed leadership of Congress, public housing still was widely viewed as a failure that must urgently be addressed. As the House Republicans proposed to repeal the U.S. Housing Act of 1937, the Clinton administration proposed eliminating public housing and replacing it with vouchers.¹¹

The contentious 104th Congress of 1995 and 1996 could not agree on major public housing legislation. Both houses of Congress passed bills, but their positions were so far apart that a conference committee was never convened to reconcile the differences. The Republican Congress and the Democratic administration, however, agreed to include several changes in annual appropriations acts and make these changes effective on an annual basis. Congress enacted some of these changes yearly until they became important parts of the Quality Housing and Work Responsibility act. These provisions included:

- Suspension of the “one-for-one replacement” law that allowed demolition or disposition of public housing only if it were replaced locally with another public housing unit, which was to help accelerate the large-scale redevelopment of public housing;
- Suspension of the “federal preference” admissions law that required preference be given to the most destitute families, often with multiple problems, which was to help reduce the concentrations of these families;
- The ability to charge tenants minimum rents irrespective of their incomes, rather than adhere to a percentage of adjusted income formula, which resulted in no rent due if a family had no countable income after various adjustments (e.g., payments for support of foster children or

¹⁰ For the performance evaluation system, see, e.g., Section 502 of the Cranston-Gonzales National Affordable Housing Act of 1990, P.L. 101-625 (101st Congress, 2d session), entitled “Reform of Public Housing Management.” For revitalization of severely distressed public housing, see Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, P.L. 102-389; 106 Stat. 1879; 42 U.S.C. 14371 note, “Homeownership and Opportunity for People Everywhere (HOPE Grants),” and Section 120 of the Housing and Community Development Act of 1992, P.L. 102-550, 106 Stat. 3673, 3695, entitled “Revitalization of Severely Distressed Public Housing.”

¹¹ HUD, “HUD Reinvention: From Blueprint to Action (March 1995), pp. 37-43. These proposals were made at about the same time as sweeping welfare reform proposals.

child care expenses); thus, it was reasoned, all families would have a financial stake in their apartments;

- Greater ability to impose public housing ceiling rents that would override the percentage-of-income formula as a family's income increased, giving families greater incentive to increase their earnings and preventing working families from being forced out of public housing by increased rents;
- The ability for PHAs to use capital grant funds for both replacement and renovation of public housing, providing more options for the efficient use of limited funding; and
- Suspension of burdensome requirements on landlords in the tenant-based assistance programs to encourage greater private owner participation in the programs.¹²

In the 1996 HUD appropriations act, as an initial compromise with the administration's proposal to replace all public housing with vouchers, Congress also enacted permanent legislation to require the "mandatory conversion" of large, distressed, expensive public housing to vouchers. The same law included a "Moving to Work" demonstration, which despite its name was intended to allow broad deregulation for up to 30 PHAs.¹³

Although the annual appropriations measures had some effect, many PHAs were unwilling to undertake reforms based on these temporary laws. A permanent act was needed, and after two additional contentious years, Congress passed the Public Housing Reform Act in 1998. The act incorporated the temporarily authorized provisions and settled many other issues. Its many compromises were reached only in the context of the Republican leadership's insistence that the act be included in the HUD appropriations act for 1999, an act that had to be passed to provide funding for the year and that contained other provisions desired by the Democratic administration. This setting made it all the more remarkable that the final product could generate virtually unanimous support.

¹² For the initial enactment of these changes, renewed in annual appropriations acts, see Emergency Supplemental Appropriations for Additional Disaster Assistance, for Anti-Terrorism Initiatives for Assistance on the Tragedy that occurred in Oklahoma City, and Recession Acts 1995. P.L. 104-19, 109 Stat. 194, Sec. 1002. 104th Cong. 1 Sess., Government Printing Office, 1995 (initial suspension of one-for-one replacement law); get cite for Balanced Budget Downpayment Act); and Section 402 of the Balanced Budget Downpayment Act, I (P. L. 104-99; 104th Congress, 1st session).

¹³ The mandatory conversion law was adopted as Section 205 of Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996, P. L. 104-34 (104th Congress, 2d session). The Moving to Work demonstration was enacted as Section 204 of the same act.

B. Overview of the Quality Housing and Work Responsibility Act of 1998

The 1998 act had one stated purpose with seven stated strategies for achieving that purpose. The strategies are discussed below in the order that they appear in the act.

The Act's Stated Purpose and Strategies¹⁴

"PURPOSES - The purpose of this title is to promote homes that are affordable to low-income families in safe and healthy environments, and thereby contribute to the supply of affordable housing, by -

(1) deregulating and decontrolling public housing agencies, thereby enabling them to perform as property and asset managers;

(2) providing for more flexible use of Federal assistance to public housing agencies, allowing the authorities to leverage and combine assistance amounts with amounts obtained from other sources;

(3) facilitating mixed income communities and decreasing concentrations of poverty in public housing;

(4) increasing accountability and rewarding effective management of public housing agencies;

(5) creating incentives and economic opportunities for residents of dwelling units assisted by public housing agencies to work, become self-sufficient, and transition out of public housing and federally assisted dwelling units;

(6) consolidating the voucher and certificate programs for rental assistance under section 8 of the U.S. Housing Act of 1937 into a single market-driven program that will assist in making tenant-based rental assistance under such section more successful at helping low-income families obtain affordable housing and will increase housing choice for low-income families; and

(7) remedying the problems of troubled public housing agencies and replacing or revitalizing severely distressed public housing projects."

1. Deregulation Strategy

This strategy was fundamental to the act's potential results and was far more than a question of eliminating paperwork. Prior law allowed PHAs little flexibility in managing real estate assets or adjusting for local conditions. Public housing projects could be renovated but, for the most part, they could not be demolished or replaced with vouchers. Federal admissions rules controlled tenant selection, favoring the most destitute families. The rent system contained little flexibility to mitigate rent increases stemming from increased work, and the voucher program contained insufficient flexibility to set rents at levels necessary for success in local markets. The strategy presumed that

¹⁴ This language constitutes Section 502(b) of the act.

PHAs generally would make good property and asset management decisions if given the flexibility, and that HUD would have limited regulatory capacity in any event.¹⁵

2. Resource Leveraging Strategy

This strategy recognized that direct program funding would fall substantially short in providing the resources needed to address the existing public housing program, let alone meet low-income housing needs, which were much larger than the current programs were capable of addressing.¹⁶ The aim of the strategy, instead, was mainly to attract additional capital and additional supportive service and operating funds.

3. Mixed-income and Poverty Deconcentration Strategy

Fundamental to success, argued advocates, was a move away from “warehousing” the poor. Almost any situation, the feeling was, would be better than that portrayed in *There Are No Children Here*. The strategy to break up concentrated poverty and promote mixed-income communities targeted not only the severely distressed developments, which were to be transformed by large-scale HOPE VI investments, but also family public housing and the degree of concentration of voucher holders.

4. Management Accountability Strategy

The strategy of increasing PHA accountability and rewarding effective management was designed to bolster PHA efforts to achieve the act’s goals. In part, the strategy shifted accountability to the local level, but the strategy also envisioned more accountability to HUD, even though this seemed at odds with a focus on deregulation. The strategy assumed that the prior system’s management failures indicated insufficient accountability to HUD, PHAs’ localities, and residents, and that management and local political stakeholders would respond to potential financial rewards or additional regulatory flexibility arising from improved PHA performance.

¹⁵ The House and Senate committee reports on this legislation, in both the 104th and 105th Congresses, made this argument. See, e.g., *Report of the United States Senate Committee on Banking Housing and Urban Affairs on S. 462, the Public Housing Reform and Responsibility Act of 1997*, S. Rpt. 105-21, 105 Cong. 1 Sess., Government Printing Office. 1997, p. 3.

¹⁶ The multiplier of families in need relative to families served by the housing programs depends on definitions of need. HUD indicated in its 2004 Performance Plan, based on 2001 American Housing Survey data, that the number of households with “worst case needs” (unassisted low-income renters who pay more than half of their income for housing or live in severely substandard housing) exceeded 4.1 million families (HUD, *Annual Performance Plan for Fiscal 2004* [April 2003]), while the Millennial Housing Commission characterized 11.3 million lower-income households as having severe housing affordability problems in 1999 (*Meeting Our Nation’s Housing Challenges: Report of the Bipartisan Millennial Housing Commission Appointed by the Congress of the United States* [May 30, 2002], page 16). Clearly, the number substantially exceeds the approximately 5 million families now served by the public housing, voucher, and Section 8 project-based assistance programs.

5. *Self-sufficiency Incentive Strategy*

This strategy was designed to work hand in hand with poverty deconcentration and welfare reform. Assisted families were to be given both incentives and prods to help themselves. This strategy is least related to affordable housing, the act's stated purpose. The act contemplated minimal direct funding, relative to the large governmental investments in Temporary Assistance for Needy Families (TANF), the earned income tax credit (EITC), and employment training.

6. *Voucher Streamlining and Flexibility Strategy*

This strategy would depend heavily on both deregulation and more effective local management to increase landlord participation and families' choice of housing. The increased flexibility, among other things, allowed PHAs to set somewhat higher subsidy limits per voucher.

7. *Troubled PHA and Severely Distressed Project Strategy*

Although Congress combined these two critical problems, they and the means of addressing them are quite distinct. The remedies for troubled PHAs involved both management accountability issues (notably, HUD enforcement) and issues arising from severely distressed public housing and virtually every other problem discussed above. The replacement or revitalization of severely distressed projects depended on deregulation, sizable funding commitments, and leveraging tools to generate resources both for the projects' replacement and additional support to their residents.

The act's purpose and strategies were coherent, but vague on key points, and they reflected several unresolved tensions. Although the purpose of the act was to contribute to the supply of affordable housing, it set no particular supply or funding goals. This contrasts with past acts, for example, that set specific national housing goals.¹⁷ Some of the most prominent tensions were policy declarations versus funding constraints (e.g., in promoting self-sufficiency); views of public housing as both a real estate program (deregulation to enable better property and asset management) and a welfare and self-sufficiency program (incentives and economic opportunities for self-sufficiency); and the goal of deregulation versus national directives reflected in self-sufficiency measures, other new requirements, and the retention of substantial decision-making power at HUD. As discussed later, these tensions emerge in efforts to implement the act.

C. *Purpose and Structure of the Paper*

The purpose of this paper is to assess the progress and implementation of the Quality Housing and Work Responsibility Act of 1998 (through enactment in December 2004 of HUD's

¹⁷ See, e.g., Section 1601(a) of the Housing and Community Development Act of 1968, P.L. 90-448; 82 Stat. 476-601; 42 U.S.C. 1441a, setting specific numerical housing construction and rehabilitation goals for the coming decade, both generally and for low- and moderate-income families.

appropriations act for fiscal year 2005). This paper highlights the key role in reform efforts of HUD and the public and assisted housing delivery system. Both faced contradictory provisions, seemingly simple provisions with complex implementation implications, both specific and vague provisions, and provisions reflecting the policy tensions highlighted above. The review shows that the Clinton and Bush administrations implemented the reforms Congress initiated with flexibility, initiative, and innovation in some respects and unnecessary rigidity in others. Still other items were not implemented at all.

Implementation by public housing authorities differed widely owing to varying levels of competence and policy direction of local leadership. Both the act's effect and PHAs' implementation role also differed by type of housing authority. Housing authorities in large cities with distressed housing stock shepherded fundamental changes. In contrast, the director of a well-managed, relatively small PHA, remarked that the act mostly meant "more paperwork and less time with my residents."¹⁸ These predictable but complicating factors must be acknowledged in an evaluation of the act's effectiveness and in recommendations for the future.

Although the act was six years old at the time of this writing in 2004, and some provisions were in effect for several years prior, its new provisions typically were not fully in place and widely understood for two years after enactment. Thus, in many ways, this is still an early look at the effect of the full act, as public housing and voucher reforms continue to unfold.

As noted above, the act outlined seven stated strategies for achieving its goals. Because the strategies are often cross-cutting in nature, this paper is organized into four broader objectives:

- (1) improving or replacing the public housing stock;
- (2) promoting self-sufficiency and poverty deconcentration;
- (3) improving or replacing public housing management; and
- (4) improving the voucher program.

For each objective, the paper describes the act's relevant reforms, the status of HUD's implementation, the effect of these changes on the ground, outstanding issues that may affect future progress, and recommendations to ensure that the act's goals are achieved. The analysis also includes those legislative or administrative initiatives, events, or conditions that were not explicitly part of the act but that relate to current or future success in achieving its purpose. The paper concludes by grading the success of the act's strategies and summarizing recommendations. The grades gauge the effectiveness of the changes in the housing programs under the act and closely related legislation (notably, the preceding annual appropriations acts), but disregard the powerful effect of other factors, such as economic conditions, welfare reform, and HUD or PHA actions taken independently of changes in the law.

¹⁸ Remark by Kay Hestekin, Executive Director, Eau Claire, Wisconsin Planning and Development Department, at the NAHRO discussion on the act, Tampa, Florida, July 2003.

In each of the four sections, a table summarizes the act's relevant initiatives and indicates when such provisions were implemented. "Year implemented" is the year that the initiative could be put into effect locally. In some instances implementation was delayed by the regulatory process (it often took a year or more for the federal notice and public comment rulemaking process to be completed).¹⁹ In other cases, based on the act's language, it could be implemented without regulations. Where the chart says "no regulations," the text explains whether the lack of regulations was a complete bar to implementation. For provisions initially adopted in appropriations acts or administratively prior to passage of the act, initial implementation of the appropriations provision is listed in parentheses and is followed by the implementation date for the corresponding, often more specific, act provision. Some provisions were implemented partially at different times, and thus more than one date is listed.

The paper's text sometimes refers to implementation by HUD notice in the *Federal Register* or otherwise, which differs from a regulation that has been subjected to notice-and-comment rulemaking. Appendix A contains an implementation chart with specific reference to the regulations and notices that accomplished implementation.

The material in this paper is drawn from several sources. Written sources include the act, relevant implementing regulations and notices, and numerous reports by HUD, other government agencies such as the General Accounting Office, and outside observers, including both interest groups (PHAs and other advocacy groups) and research organizations. The author also has drawn on interviews or informal discussions with many individuals involved in implementation; sessions sponsored by PHA groups on the effect of the act; a Brookings session on this work; comments on drafts from several experts; his experience both as a HUD official representing the administration when the act was being considered and then with responsibility to coordinate implementation efforts through early 2003; and his interactions with many PHAs and others involved in implementation after that time. Any mistakes are the author's responsibility alone.

¹⁹ Under notice-and-comment rulemaking, governed by the Administrative Procedures Act, HUD formulates and issues a proposed rule, accepts comments for 60 days unless it can justify a shorter time period, considers the comments and publishes a final rule, which is effective after a 30-day waiting period. Both proposed rules and final rules must be cleared first among HUD offices and then by the president's Office of Management and Budget, which has 90 days to do this under its internal rules. A number of the proposed rules under the act received about 100 comments. The full process of publishing a final rule thus easily could take one year or more. When considering single aspects of the law, this process is not required if a legal determination is made that Congress intended that aspect of the law to be "self-implementing," and thus no regulations are needed to articulate its meaning further. Where a regulation is required, HUD could speed the process by publishing an interim rule for effect, where the legal standards for justifying this step could be met. HUD published interim rules to meet several specific deadlines for action under the act.

II. IMPROVEMENT OF REPLACEMENT OF PUBLIC HOUSING STOCK

The act and its preceding annual appropriations provisions were designed to address a public housing stock that had been deteriorating for years. A backlog of capital improvements totaled \$21.6 billion as of 1998.²⁰ Needed improvements averaged more than \$21,000 per unit for family units and \$13,000 per unit for elderly units. In addition, more than \$2 billion in new capital needs were accruing annually. Appropriations to address both the capital backlog and new needs were about \$3 billion. The act included several measures described below and summarized in Table 2 to address this situation, encompassing deregulation to allow for asset management, leveraging of nonpublic housing funds, facilitating mixed-income communities, and replacing or revitalizing severely distressed public housing.

Table 2. The Act's Public Housing Improvement or Replacement Initiatives

	Year Implemented
Repeal one-for-one replacement requirement for public housing demolitions*	(1995) 1998
Streamline demolition approvals	(1995) 1999
Establish capital fund: allow flexible uses (modernize or develop new units)	(1996) 1998
Establish capital fund: provide formula for small PHAs (replaces competitive grant program)	1999
Establish capital fund and operating fund: allow new subsidy mechanisms such as "capital fund-only" or "operating fund-only"	Not implemented
Promote leveraging: allow borrowing against future capital fund appropriations*	2000 (no regulations)
Promote leveraging: allow mortgaging of PHA property to raise capital funds	2003 (no regulations)
Promote leveraging: allow use of public housing operating subsidy for debt repayment	Not implemented
Promote leveraging: allow joint ventures to improve management, development, or supportive services	2000
Promote leveraging: authorize mixed-finance public housing developments*	(1994) 1998 (no regulations)
Require workable public housing total development cost limitations	1998
Authorize HOPE VI program to replace or revitalize severely distressed public housing*	(1993) 1998
Require conversion of distressed public housing to vouchers ("mandatory conversion")*	Not implemented; 1996 law applies to some developments
Allow conversion of public housing to vouchers ("voluntary conversion")	Not implemented

²⁰ Meryl Finkel, Donna DeMarco, Hin-Kin Lamb, and Karen Rich, *Formula Capital Study: Capital Needs of the Public Housing Stock in 1998* (Bethesda, MD: Abt Associates, Inc., March 2000).

Note. Year implemented is the year that the initiative could be put into effect locally. Years listed in parentheses are initial implementation dates for provisions adopted prior to passage of the act; they are followed by the implementation date for the corresponding, often more specific, act provision. Some provisions were implemented partially at different times, and thus more than one date is listed.

* These were the most basic changes, whether first authorized by the act or otherwise.

Repeal one-for-one replacement requirement. To allow PHAs to demolish their worst public housing, the act repealed the requirement that any demolished public housing had to be replaced with an additional unit of public housing (the so-called one-for-one replacement law, which had been imposed in 1987). The original concern was that demolition not result in fewer units of housing for beneficiaries. However, the requirement failed to recognize that many units were in such deplorable condition that they were unoccupied and failed to count replacement of units with vouchers. Furthermore, because PHAs were unable to obtain suitable sites or the necessary funding to replace public housing, this law had resulted in a virtual freeze on existing public housing inventory.

In short, almost no demolitions were taking place, even though a national commission found in 1992 that approximately 86,000 public housing units were “severely distressed” and needed comprehensive revitalization or replacement. Repeal of the one-for-one replacement law was fundamental to enabling the transformation of public housing communities and allowing PHAs to perform as asset managers; without repeal, PHAs were forced to operate their public housing properties regardless of their viability.

Streamline demolition approvals. The act streamlined the HUD approval requirements for demolition or disposition of public housing, allowing a PHA certification of the underlying conditions to suffice. HUD had been criticized for uneven, and in some instances virtually endless, reviews of applications. Although HUD approval was still necessary, streamlining was a key deregulation step, necessary to make the repeal of the one-for-one replacement law meaningful.

Establish capital fund. The act provided for a flexible capital fund that PHAs could use to modernize existing public housing, develop additional public housing to replace demolished units, or foster low-income homeownership. This replaced prior law under which funds were authorized separately for modernization, major reconstruction, and additional units. That prior law had a perverse effect because some PHAs used the funds for eligible purposes that were an ineffective investment (notably, to modernize nonviable properties). All PHAs, as opposed to only larger PHAs under prior law, could receive capital funds by formula. The act also established a consolidated operating fund to cover public housing operating, rather than capital, expenses.

The capital and operating funds legislation and related provisions authorized new funding uses. These included use of “capital fund-only” or “operating fund-only” subsidies, which allowed PHAs to use one but not the other subsidy and commit that subsidy for a much shorter term than the 40 years otherwise required for new public housing. The hope was that PHAs could use this

flexibility to produce additional affordable housing in situations in which the production of “permanent” public housing was infeasible.²¹

Promote leveraging. The act provided additional tools for leveraging funds to modernize public housing or to develop mixed-income and other public or affordable housing. PHAs could use capital funds to pay borrowing costs, which allowed them to generate more resources in the near term than annual appropriations would provide. Additional tools included PHA authority to place mortgages on public housing, which enabled PHAs to borrow funds, use rents and operating subsidy to repay debt, and enter into joint ventures or form subsidiaries for development or other endeavors, such as providing supportive services. The act left to HUD the details of making these concepts workable.

The act also authorized “mixed-finance” transactions, in which public housing would be owned and managed by private entities that agreed to adhere to all public housing laws and regulations. This ownership arrangement was first made possible by a HUD General Counsel opinion in 1994. It was expected that mixed-finance transactions would become a basic leveraging mechanism. By 1998, they had become the means of revitalizing housing with federal low-income housing tax credits in combination with public housing subsidies.

Require workable total development cost limitations. The act redefined limitations on public housing total development costs paid with capital funds. The purpose was to prevent HUD from setting these limitations at unrealistic levels that would hamstring revitalization efforts, as it sometimes had done in the past.

Authorize HOPE VI. The act authorized large grants for the HOPE VI program to revitalize or replace severely distressed public housing, as well as provide related supportive and community services. HOPE VI had existed only through annual appropriations legislation.

Require conversion. The act revised and extended to smaller developments the 1996 law requiring the mandatory conversion of large, distressed public housing to vouchers. The mandatory conversion requirement would allow PHAs, which were sometimes facing tough political battles regarding demolition of even severely distressed public housing, to blame this necessary step on Uncle Sam. The act required that public housing be eliminated from the inventory over five years (10 years by exception) if it was deemed “distressed” under HUD guidelines and either would cost more to operate and modernize than vouchers or could not be revitalized with a reasonable investment.

Allow voluntary conversion. The act allowed PHAs voluntarily to replace public housing with vouchers, if vouchers would be less expensive and certain other tests were met. The statutory

²¹ Another provision of the act that was never implemented would have allowed PHAs to retain any operating subsidy saved as a result of increased tenant incomes in a mixed-income development to rent privately developed units in the neighborhood. See Section 35(g) of the U.S. Housing Act of 1937, contained in Section 539 of the act.

provisions are complicated, but the ability to replace public housing with vouchers, in theory, could be another important step in allowing more flexible asset management. The mandatory and voluntary conversion provisions were the basic compromise between public housing supporters and those who supported using vouchers for all public housing, which by the time of the act's passage no longer included the Clinton administration.

A. Status of HUD Implementation

HUD's implementation of these measures varied greatly in timing, means, aggressiveness, flexibility, and creativity. HUD was prompt and effective in facilitating demolitions and awarding HOPE VI funds to PHAs, and eventually allowing substantial mixed-finance activity and capital fund borrowing. Some of the act's other important measures, however, have yet to be implemented; for example, some of those to provide PHAs additional asset management flexibility.

HUD took measures to implement suspension of the one-for-one replacement law promptly when Congress first enacted this measure on a temporary basis in 1995, continued it annually, and then included it in an initial notice regarding the new act. HUD also streamlined the demolition-disposition process with administrative changes when Congress first suspended the one-for-one replacement law and by notice after the act was enacted. It also took the administrative actions necessary to allow for more expeditious processing. Thus, HUD took prompt actions to allow PHAs to address their public housing inventories more flexibly. In 1996, the Clinton administration set a goal of demolishing and replacing 100,000 distressed or obsolete public housing units.

HUD was quick to act on the mandatory conversion of most of the severely distressed public housing covered under the 1996 law. It defined developments subject to individualized assessment under that law, hired consultants to do the assessments in cities with multiple sites, and negotiated comprehensive compliance actions with the most affected PHAs (notably Chicago, Philadelphia, Pittsburgh, and St. Louis).

HUD promptly implemented the total development cost changes by notice and the HOPE VI changes by incorporating them in the request for the HOPE VI applications during the first year the act applied. HUD never provided regulations for the HOPE VI program. Thus, almost a decade into the program, the Bush administration was free to change the annual request for applications to provide for smaller individual grants and to emphasize in the grant selection process the readiness of a proposed transaction to proceed.

HUD implemented the capital fund formula through the act's required negotiated rulemaking process, in which HUD, PHAs, and other interested groups negotiated the formula for distributing funds. The formula institutionalized an initiative to create a funding set-aside only for replacement public housing, which HUD had implemented using the flexibility provided by the annual appropriations acts. This was accomplished by allowing a PHA to keep the annual capital funds provided under the formula for 10 years after a development's demolition, rather than reallocating them to other PHAs immediately.

Although HUD produced no regulations or notices on PHAs' ability to borrow funds by pledging future capital fund appropriations for repayment, it was responsive to the demands of the D.C., Chicago, and other housing authorities to use this mechanism. To help this initiative along, HUD took administrative steps to make repayment more certain by encouraging a favorable response from the bond market. Namely, it directly routed the funding to bond trustees and agreed that funds needed for repayments would never be subject to HUD sanctions unless required by law.²² HUD's processing requirements for approval of such borrowing continued to change and grow in the absence of any underlying regulations or notices. HUD applied the same requirements to borrowing of all amounts.

Other important aspects of the new law, however, were not implemented, or they were hampered by lack of regulations. Although HUD implemented the formula for distributing capital funds, the Clinton and Bush administrations produced not even a proposed regulation on the use of these and other funds, such as capital fund-only and operating fund-only developments and mortgaging public housing properties. The two administrations also produced no rules regarding the act's mixed-finance development section, although an important provision defining the fate of developer commitments should operating subsidies be cut specified implementation only by regulation. A rule was finalized regarding joint ventures and subsidiaries, but the rule did not cover the development of public housing or address such basics as allocation of staff time and conflict of interest when PHAs used subsidiaries.

Until 2003, there were no implementing instructions for using capital fund set-asides for replacement public housing; elaborations followed in 2004. The instructions were complex, in part reflecting staggered funding awards for PHA demolitions during various years. They were unclear whether the 10 years of potential funding contemplated by the regulation would be available as anticipated.

Although HUD completed proposed rules for the act's mandatory and voluntary conversion provisions in 1999, and received only five public comments on one of the rules and four on the other, final regulations were not completed. More generally, HUD completed drafts of the capital and conversion rules several times, but the President's Office of Management and Budget (OMB) disapproved the drafts.²³ In both instances, the disputes were about OMB policy or implementation ideas that, good or bad, were not contained in the act.

²² These terms are reflected in an amendment to the public housing authority's Annual Contributions Contract that HUD signs when it approves such financings.

²³ OMB must sign off on regulations before they are published. OMB's concerns in many instances have been policy-related, rather than technical, budgetary or management-related aspects of proposed regulations or whether such proposed regulations meet the intent of the statute.

B. Progress

The act envisioned dramatic changes to the physical stock of public housing. The first change to occur was the large-scale demolition of severely distressed housing and use of vouchers for replacement. The completion of some replacement housing is proceeding, as are substantial capital improvements in a few cities, spurred by large-scale borrowing. Nevertheless, probably four-fifths of the public housing stock not subject to demolition or disposition is yet to be affected by these initiatives, and in that respect the work is at a relatively early stage. Because some of the mechanisms provided by the act have not been implemented, the means to accomplish physical transformation have been more limited than Congress envisioned.

1. Demolition and Replacement

As of mid-September 2004, almost 165,000 public housing units had been approved for demolition since suspension of the one-for-one replacement requirement, and more than 115,000 units had been demolished. This includes the vast majority of the legendary bad projects around the country. As of June 2004, approximately one-half of the approved and 60 percent of the actual demolitions were associated with HOPE VI.²⁴

In city after city, replacement of public housing with mixed-income, low-rise communities has revitalized neighborhoods. Almost every large city has been involved. This does not mean that all of the nation's distressed public housing has been addressed; for example, of the 56 applications HUD received for 2003 HOPE VI revitalization grants, only 24 could be funded.²⁵ Nevertheless, the most notorious developments are largely gone or going (see Table 3).

²⁴ The demolition data are reported in HUD's Public Housing Information Center (PIC system). The HOPE VI data are from HUD's HOPE VI quarterly report for the quarter ending June 2004.

²⁵ As of 2003, several very convincing applications still were being received by HUD for HOPE VI funding to replace public housing developments that appear to be severely distressed. The mandatory conversion law covered only developments with at least 300 units and vacancy rates greater than 10%, adjusted for units in modernization. Various developments not subjected to this assessment have difficult physical and social conditions. The Urban Institute in December 2003, using a lenient definition of distressed buildings based on HUD's physical inspections data and the percentage of families on welfare, concluded that almost 47,000 public housing units "have some form of distress." G. Thomas Kingsley, Martin D. Abravanel, Mary Cunningham, Jeremy Gustafson, Arthur J. Naparstek, and Margery Austin Turner, "Lessons form HOPE VI for the Future of Public Housing" (Washington: Urban Institute, 2003).

Table 3. Some Severely Distressed Developments in 1993 that are Now Being Replaced or Revitalized

City	Development	Original Number of Units
Atlanta, Georgia	Techwood Homes	457
	Clark Howell Homes	624
Baltimore, Maryland	Lafayette Courts	805
	Lexington Gardens	667
Chicago, Illinois	Robert Taylor Homes	4,415
	Cabrini Green	1,921
	ABLA Homes & Extension	3,497
	Henry Horner	1,665
	Stateway Gardens	1,644
Dallas, Texas	Lakewest	3,444
Detroit, Michigan	Jeffries Homes	2,170
	Herman Gardens	1,404
Houston, Texas	Allen Parkway Village	904
Kansas City, Missouri	Guinotte Manor	418
Los Angeles, California	Pico Gardens	260
	Aliso Apartments	802
Newark, New Jersey	Hayes Homes	1,458
	Walsh Homes	630
New Orleans, Louisiana	Desire	1,832
Philadelphia, Pennsylvania	Richard Allen Homes	1,321
	Schuylkill Falls	714
	Southwark	874
San Francisco, California	Bernal Dwellings	208
Seattle, Washington	Holly Park	893
St. Louis, Missouri	Darst-Webbe	1000
	Vaughn	684
Washington, DC	Ellen Wilson Homes	134
Total units		34,845

Source: U.S. Department of Housing and Urban Development, A Report to the President: A Promise Being Fulfilled: The Transformation of America's Public Housing (March 2000), p. 14.

These distressed sites were replaced with a combination of public housing and vouchers. If both public housing and vouchers are counted, replacement housing is generally keeping pace with the demolition of previously occupied public housing units.²⁶

The main engine thus far for public housing replacement has been the HOPE VI program. By summer 2004, HOPE VI had produced approximately 16,000 replacement public housing units (typically on or near the original housing sites).²⁷ One would expect the number of non-HOPE VI

²⁶ This would be true if about two-thirds of the units demolished had been occupied when relocation activity started, a reasonable estimate in the author's experience and an estimate also used informally by HUD staff involved with the demolition and replacement effort.

²⁷ HOPE VI Quarterly Report ending June 2004, cited *supra*. The total number of public housing replacement units completed in all programs was not readily available.

units to increase as the capital fund set-aside for replacement housing begins to yield results. About 70,000 vouchers have been provided to replace public housing. This demolition and replacement activity has been substantially, but not wholly, in the eastern half of the country.²⁸

2. HOPE VI.

The relatively few public housing sites fortunate enough to receive HOPE VI funds can be replaced with mixed-income townhouse or row house communities. These and other large, mixed-income communities that have been built to replace demolished public housing, at considerable cost, generally have been heralded as exemplary and are incomparable to what they replaced. Various sites attracted market-rate tenants, and the neighborhoods were substantially improved.²⁹ In some cases, residents of revitalized developments have seen increases in household income and work participation. Crime has fallen in the developments and the surrounding communities, and property values have increased.

One would expect the commitment of billions of dollars to have a substantial impact, and it did. Progress, however, was slow. By summer 2003, only 15 of 165 funded HOPE VI projects had been completed. One year later, only about one-third of the planned public housing, homeownership, and market rental units for HOPE VI had been completed. Of the \$5 billion in implementation grants made available through fiscal year 2002, only about \$3.3 billion had been obligated and \$2.9 billion expended as of June 2004.

The results of the HOPE VI program were not met with unanimous approval. In particular, questions arose over the extent to which the original public housing families had benefited. The families often were very difficult populations to assist, with a far higher than average incidence of physical or mental health problems, criminal records, and other impediments.³⁰

The first question was what happened to the existing residents of the planned redevelopments? In many cities, only 10 to 20 percent of residents were returning to the original public housing site. Those who did clearly were in better housing, and some expressed delight with their new surroundings. Evidence was limited and inconclusive, however, whether their life situations had improved as a result. Anecdotal evidence suggested greater lease compliance and work participation. However, it remained unclear whether the basic mixed-income housing theory—that low-income, often unemployed, tenants would benefit from living among working role models—was

²⁸ This estimate is inexact, but based on a compilation by Barbara Sard of the Center on Budget and Policy Priorities for fiscal year 1996–2002 and the author’s knowledge of the volume of such vouchers issued in fiscal year 1995 (including vouchers awarded for “vacancy consolidation,” which amounted to vouchers for replacement housing) and approximation of funding for such vouchers after fiscal year 2002.

²⁹ Mindy Turbov and Valerie Piper. “HOPE VI as a Catalyst for Neighborhood Change” (Washington: Brookings Institution, 2004).

³⁰ Susan J. Popkin, “The HOPE VI Program: What about the Residents?” (Washington: Urban Institute, 2002), p. 4.

proving true. In any event, some sites screened out families who were neither working nor in school, and thus largely limited admissions to families with existing role models. It seemed more likely that these families might benefit from the new mix of commercial and government services that had forsaken the distressed developments. Some spectacular examples emerged of leveraging other resources and improvement in basic services.³¹

For the families who relocated with vouchers, evidence was solid that these families found generally better housing in safer, less poor neighborhoods.³² There also was some solid evidence that living in more economically mixed and healthier neighborhoods can matter greatly to a family, although not necessarily immediately or with positive impacts on all family members.³³ Studies were beginning to indicate that at least in some locations, the group of families relocated with vouchers improved their lives dramatically (e.g., increased their employment rate).³⁴

Although most families benefited from relocation with vouchers, failures did occur. Some raised concerns that too many families assigned vouchers were evicted, in part, because they were not provided enough assistance in understanding their new responsibilities, such as paying utility bills and stringent lease compliance. The vouchers also did not promote racial desegregation as much as some had hoped. Although as a whole, the families were moving to less impoverished neighborhoods, many were moving to neighborhoods almost as racially concentrated as the original public housing developments.³⁵ Some observers believed that this could change as families ventured farther away in subsequent moves.

Several of the studies voicing concern were based on results in Chicago, where the largest transformation was taking place. The city planned to replace 40,000 public housing units (half

³¹ For a survey of work and evidence regarding these issues, see Alastair Smith, "Mixed-Income Housing Developments: Promise and Reality" (Cambridge, MA: Harvard Joint Center on Urban Studies and Neighborhood Reinvestment Corporation, 2002); Susan Popkin, Bruce Katz, Mary Cunningham, Karen Brown and Jeremy Gustafson, "A Decade of HOPE VI: Research Findings and Policy Challenges" (Washington: Urban Institute and Brookings Institution, 2004). Atlanta's Centennial Plaza development, formerly Techwood Homes, is a great example of HOPE VI generating spectacular leveraging and improvement in basic services. This included physical and operational transformation in the neighborhood elementary school, which has resulted in a dramatic change in student performance.

³² Popkin, "The HOPE VI Program," p. 3.

³³ See James Rosenbaum and Stephanie DeLuca, "Is Housing Mobility the Key to Welfare Reform? Lessons from Chicago's Gautreaux Program" (Washington: Brookings Institution, 2000.). For possible disparate effects on family members who move to better neighborhoods (e.g., teenaged girls faring better than teenaged boys), see HUD, "Moving to Opportunity for Fair Housing Demonstration Program: Interim Impacts Evaluation" (September 2003).

³⁴ Such a preliminary finding was discussed by Dr. Thomas Boston of the Georgia Institute of Technology and Renee Glover, Executive Director of the Atlanta Housing Authority, at a Brookings Institution forum on HOPE VI in fall 2003, based on ongoing studies in Atlanta undertaken at Dr. Boston's direction.

³⁵ For specific discussion of this point, and more developed discussion of the impact of HOPE VI on the original residents, see "A Decade of HOPE VI: Research Findings and Policy Challenges", cited *supra*, pp. 27-32.

through demolition), provide 5,000 new units in mixed-income communities, and provide 15,000 new vouchers.³⁶ The same studies expressed overall support for the Chicago public housing transformation effort.

3. *Mixed-finance, Borrowing, and Other Innovative Efforts.*

Significant new mixed-finance activity was occurring apart from HOPE VI. Well over 100 mixed-finance transactions had been authorized in which more than 40 PHAs used public housing capital funds to leverage private investment, in most cases combining these funds with low-income housing tax credits. The individual transactions typically involved at least several million dollars, but most were not of the same magnitude as HOPE VI.³⁷

PHAs began on a large scale to use the act's authorization to borrow funds for renovation or development, with repayment pledged from future appropriations of capital funds. The first loan of \$33 million was provided to the D.C. Housing Authority in late 2000. The Chicago Housing Authority borrowed almost \$300 million in 2002, a transaction that was dubbed the "Bond Deal of the Year" by *Bond Buyer* newspaper.³⁸ By November 2004, approximately \$1.6 billion of such issues had been approved, including issuance of up to \$693 million for Puerto Rico. Several approved or pending proposals included borrowings by small housing authorities on a pooled basis. Their ability to borrow was made possible by the act's change from requiring small PHAs to compete for modernization grants to an automatic inclusion of small PHAs, thus providing them with a reliable capital funding stream.³⁹ A few PHAs combined the borrowings with low-income housing tax credits.

The new capital financing produced some far-reaching results. For example, Chicago's bond proceeds coupled with other available funds provided the resources to renovate all of its public housing for the elderly and scattered-site housing, an effort impossible without such financing. Much of this work was completed by mid-2004. Meanwhile, demand was growing nationwide for such financing.⁴⁰

The financing came with some limitations. The amount of funds that could be raised in such a transaction was substantial, but limited somewhat by borrowers' demand to be protected from future cuts in capital fund appropriations, which would jeopardize loan repayments. In addition, HUD was concerned that a PHA leave enough capital funds uncommitted to loan repayments to enable it

³⁶ Chicago's efforts are described in annual plans and reports filed with HUD in connection with the Moving to Work Demonstration.

³⁷ HUD, "Report on Private Financing Partnerships for Capital Modernization Needs," Report to Congress in Response to Conference Report (House Report 108-10), submitted to House and Senate Appropriations Committees in August 2003.

³⁸ "Bond Buyer Picks Deal of the Year," *The Bond Buyer*, December 11, 2002.

³⁹ Information provided by HUD Office of Capital Improvements, Office of Public and Indian Housing.

⁴⁰ Discussion with Todd Gomez, former Chief Financial Officer, Chicago Housing Authority, spring 2004.

to address future capital needs. Thus, PHAs typically were permitted to tie up no more than one-third of their projected annual capital fund grants for loan repayments. A frustrating bottleneck also occurred in the HUD approval process, the result of limited personnel and a growing list of approval requirements. To address this, HUD recently added another staff person and sought contractor help.

Leveraging capital funds under the act thus was generated through HOPE VI, other mixed-finance transactions, and by borrowing against the capital fund. The dollars leveraged were impressive: almost \$11 billion projected for the HOPE VI program once current projects were completed (more than two dollars for each HOPE VI dollar to be expended), well over \$400 million in other mixed-finance transactions, and more than \$1.6 million in borrowing.⁴¹

The leveraged equity funds were not equivalent to the borrowed funds. The private equity dollars generally helped to produce tax-credit units in mixed-income communities, where families had considerably higher incomes than public housing families, or they helped pay public housing development or renovation expenses above the amounts otherwise allowable.⁴² These dollars were a net addition of funds. The dollars leveraged by capital fund borrowing were all devoted to public housing renovation or development expenses, but of course the money had to be repaid. Those transactions, therefore, were bringing forward some of the funding expected to be appropriated in the future, rather than providing a net funding addition to the system.

The effect of HUD's incomplete regulatory processes was to slow down innovation in several respects. Operating fund-only, capital fund-only, and voluntary conversion initiatives could not be tried because regulations required for implementation were not completed. Mortgaging public housing property was attempted infrequently (outside HOPE VI) because the HUD Washington, D.C., office had to approve each transaction, HUD issued no guidance to help PHAs, and processing the requests was protracted.⁴³ A lack of regulations and guidance also inhibited the pledge of rents and operating subsidy for debt service. On the other hand, PHAs not fully guided by HUD regulations or notices entered into various housing development ventures with subsidiaries or investors, involving what HUD's Office of Inspector General (OIG) projected to be hundreds of millions of dollars in financial risk to the public housing program. The OIG criticized unauthorized loans or loan guarantees, misallocation of staff time, conflicts of interest and other problems. HUD's public housing officials and PHAs strongly disputed the magnitude of the risk, but the OIG clearly

⁴¹ The number used for HOPE VI is from HUD's HOPE VI quarterly progress report for the quarter ending June 2004. HUD's August report to Congress instead said that HOPE VI grantees have used \$5.4 billion in revitalization funds to leverage \$8.6 billion in projected non-public housing funds, based on an earlier quarterly progress report. The source for the mixed-finance data is the HUD report to Congress. That report indicated that more than one-half of the partnerships have incomplete financial data, and thus that the leveraging for the non-HOPE VI mixed financial transactions is greater than \$400 million.

⁴² Informal discussion with staff of HUD's Office of Public Housing Investments, spring 2004.

⁴³ HUD's Assistant Secretary for Public and Indian Housing, nevertheless, urged PHAs at the national NAHRO convention in Dallas in October 2003 to consider mortgaging.

found some abuses, lack of PHA financial expertise, and confusion regarding PHAs' powers under the act, especially among smaller PHAs.

C. Issues

Although progress has been made in redeveloping or replacing distressed public housing, outstanding concerns remain.

1. *The HOPE VI program has been put on the Federal chopping block.*

The Bush administration brought HOPE VI issues to a head by proposing to terminate funding in 2004.⁴⁴ Amid staunch efforts to keep all domestic spending in line, the administration targeted HOPE VI because a principal goal of demolishing 100,000 severely distressed public housing units had been met. The administration also cited the slow progress on implementation and the concerns raised about the fate of original residents of the HOPE VI developments.

Some tenant advocates expressed lukewarm support for HOPE VI because of relocation issues, exclusion of original residents from the new developments, and demolition of public housing units without adequate replacement units. PHAs, some residents, cities, developers, and others who had been involved in or examined the record of HOPE VI, however, strongly supported the program. Strong opposition in congressional budget hearings to the program's elimination led then HUD Secretary Martinez to clarify that he was only asking for a pause in the program to determine whether the program was optimally structured.⁴⁵ Arguments on the slow progress were countered by reminders of the complex, sweeping nature of the redevelopment efforts under HOPE VI.

Congress responded by slashing the HOPE VI appropriation from \$574 million (fiscal year 2003) to \$150 million (fiscal year 2004).⁴⁶ Congress also enacted legislation extending the HOPE VI program through September 30, 2006. That legislation amended the program's selection criteria to emphasize resident and other non-PHA participant involvement, less resident displacement, supportive services to residents prior to relocation, more project-based low-income units where

⁴⁴ See, e.g., testimony of Michael Liu before the House of Representatives Subcommittee on Housing and Community Opportunity, April 29, 2003 (www.hud.gov/offices/cir/test42903hope6.cfm); Statement of the Honorable Mel Martinez before the U.S. House Committee on Appropriations, Subcommittee on Veterans Affairs, Housing and Urban Development, and Independent Agencies, March 19, 2003 (www.hud.gov/offices/cir/test31903.cfm).

⁴⁵ This statement was made to the Housing Appropriations Committee at the March 2003 hearing. For a compilation of resident concerns, see "A HOPE Unseen: Voices from the Other Side of HOPE VI A Field Study prepared by Center for Community Change for ENPHRONT (Everywhere and Now Public Housing Residents Organizing Nationally Together)" (Washington: Center for Community Change, 2003).

⁴⁶ The appropriation is for the Revitalization of Severely Distressed Public Housing (HOPE VI) account in Division E, Department of Veterans Affairs and Housing and Urban Development, and Independent Appropriations Act, 2004, of the Consolidated Appropriations Act, 2004, P. L. 108-199, 118 Stat. 3, 108 Congress, 2d Session.

needed, and a provision giving residents priority for re-occupancy.⁴⁷ Although the administration's 2005 budget again requested no funding for HOPE VI, Congress restored funding to the program, but at \$144 million, slightly lower than the previous year.

2. *The aggressive demolition and disposition of public housing could result in the elimination of viable units, which were not adequately replaced.*

The effort to eliminate distressed public housing has proceeded well beyond the severely distressed developments. The viability of some of the housing proposed for demolition is becoming a judgment call. Some of this housing may be undesirable by today's standards, but serviceable for providing basic shelter.

3. *Data are insufficient to track all important aspects of public housing redevelopment.*

HUD's publicly released data on demolition and replacement are adequate for tracking the HOPE VI program. However, the data are less successful in tracking replacement public housing efforts beyond HOPE VI or in tracking the use and location of vouchers. These data shortcomings make it difficult to fully assess local and national redevelopment efforts, including the basic question of whether and when vouchers should be considered an equivalent replacement to or even an improvement on a replacement public housing unit.

4. *HUD's commitment to replace public housing is unclear.*

HUD's level of attention until recently to the replacement housing pipeline apart from HOPE VI, and the rules defining its funding, has been problematic. Replacing public housing is a difficult task, particularly securing suitable sites and public support. PHAs need HUD's support and attention, and in many instances technical assistance, if the effort is to succeed.

5. *The capital fund financing is extremely valuable but has been limited by unsettled HUD requirements, processing bottlenecks, and constraints on borrowing for some small PHAs.*

Although the capital fund financing accelerated the availability of funds, HUD and PHAs still wrestle with basic concerns about borrowing. One issue is how to efficiently assure the quality and appropriateness of a PHA investment made now at the expense of future funds, and HUD's role in that endeavor. HUD's efforts to grapple with this important issue led to delays and uncertainty in the HUD approval process as new requirements were added or considered. These efforts complicated processing, which was already hampered by inadequate staff.⁴⁸ Further, the constraint on total

⁴⁷ The authorizing legislation is P. L. 108-186, 117 Stat. 2685, 2693 (108th Congress, 1st Session).

⁴⁸ Among other examples, in March 2002, HUD added a requirement for an independent management assessment in addition to the assessment required each year by HUD. In 2004, HUD began to discuss a requirement for a physical needs assessment covering the public housing that would not benefit from capital improvements as a result of the financing. HUD's "Term Sheets" temporarily indicated that submission requirements were "subject to change without notice."

dollars that could be leveraged particularly affects small PHAs with relatively large capital needs, given their limited capital fund shares. Some PHAs have decided that this mechanism simply cannot meet their needs.

6. *The Bush administration proposed, but then dropped after encountering congressional opposition, an innovative proposal to leverage additional capital and promote property-based financial discipline.*

The president's 2003 and 2004 budgets proposed an additional means of leveraging private capital, the "Public Housing Reinvestment Initiative" (PHRI).⁴⁹ The PHRI proposed that a PHA be allowed to trade capital and operating subsidies for individual public housing developments and receive vouchers in return. The PHA would commit those vouchers to that development or a replacement development on a long-term basis (using a program option called "project-based vouchers," discussed in section 5). The PHA could then borrow capital funds against the expected income from the covered property, including both tenant rental payments and subsidy payments, as Section 8 and other owners of affordable housing have done for years. The proposal included a partial loan guarantee to increase lender interest. Leveraging would be much greater under this approach than under the capital fund because lenders would have both the partial loan guarantee and a pledge of the underlying property to secure the loan's repayment.

The administration claimed that PHRI would be a powerful tool not only to raise additional capital, but also to move PHA operations toward the mainstream of real estate management. The latter would occur because lenders would require financial management for individual properties. Secretary Martinez declared in congressional hearings on the 2004 budget that "The PHRI reflects our vision for the future of public housing."⁵⁰

The PHRI proved to be controversial. It was supported by several PHAs either because they could leverage more funding for their capital needs, particularly where allowable rents in the voucher program were high, or because they could use it to trade public housing regulations for less extensive project-based voucher regulations. Some PHAs, particularly those familiar with assisted projects, also argued that PHRI would engender better management and rely on a more secure subsidy (voucher renewals rather than public housing). Several national groups, including two important groups of public housing officials, formally supported the proposal, and an important affordable lenders' group and Bank of America also expressed strong interest.⁵¹ In addition, the

⁴⁹ This proposal was Section 208 of the Administrative Provisions in the President's budget submitted to Congress for fiscal year 2004. See statement of Michael Liu, before House Committee on Financial Services, April 29, 2003.

⁵⁰ "Statement of Mel Martinez, Secretary, U.S. Department of Housing & Urban Development, before the United States Senate Committee on Appropriations, Subcommittee on Veterans, Housing and Community Development, March 6, 2003," available at www.hud.gov/offices/cir/test30603.cfm.

⁵¹ National Association of Housing and Redevelopment Officials (NAHRO) and Public Housing Authorities Directors Association (PHADA) wrote letters to HUD expressing their support, with some caveats (NAHRO on July 30, 2002, after a resolution to that effect had been adopted by its membership, and PHADA on July

congressionally chartered Millennial Housing Commission and a congressional study of public housing operating subsidies, independently advocated for property-based financing to meet public housing capital needs along similar lines to PHRI.⁵²

The PHRI would have been supported more broadly if the administration had not simultaneously proposed to cut the capital fund in the 2003 budget and to eliminate HOPE VI in the 2004 budget.⁵³ This raised the suspicion that PHRI was to replace those programs, rather than improve public housing conditions more rapidly. The PHRI also raised a concern that financing would not benefit the “worst” public housing with the greatest capital needs. It was argued that lenders and developers would be most interested in the best developments, and the ability to accomplish the necessary rehabilitation would be less constrained by market rents at those developments.⁵⁴ To address the first point, HUD added the loan guarantee to the 2004 proposal. To the second point, HUD proposed that housing authorities could supplement PHRI with other capital funds.

Tenant representatives and others also expressed concern that mortgaging these properties could expose them to potential foreclosures, and thus the possible loss of additional low-income housing. For this reason and because PHRI’s language allowed replacement of project-based units with vouchers in some circumstances, the Senate appropriations committee expressed concern that the supply of affordable housing was in jeopardy.⁵⁵ Suggestions were offered for compromise

23, 2002). The National Association of Affordable Housing Lenders hosted a session in New York City in June 2002 so that HUD staff could discuss the proposal with key members. The Bank of America created a brochure on the proposal and lobbied Capitol Hill staff.

⁵² Millennial Housing Commission, *Meeting our Nation’s Housing Challenges*; Graduate School of Design, Harvard University, “Final Draft Report: Debt Financing of Public Housing Capital Improvements (November 1, 2001).

⁵³ In the 2003 budget, the administration proposed to cut the Capital Fund from approximately \$2.8 billion to \$2.4 billion. HUD Secretary Martinez put additional pressure on the PHRI proposal by stating to Congress that if PHRI did not generate sufficient capital funding to cover the amount of this proposed cut, HUD would ask for a supplemental appropriation. HUD, “Fiscal 2003 Budget Summary” (February 2002), p. 10.

⁵⁴ The Senate Appropriations Committee explicitly raised this concern. See S. Report 108-143, page 30. A study undertaken by HUD in 2002, in which numbers were calculated for seven developments around the country, assumed that PHRI was enacted and determined the amount of capital that could be raised in view of rents and expenses. The study showed a range of \$17,233 to \$55,900 per unit. The lowest amount raised was for a development in Kansas City, MO, while the highest amount raised was for a development in Boston. Abt Associates, “Financial Analysis of Selected Public Housing Properties under the Public Housing Reinvestment Initiative. Submitted to HUD Office of Public and Indian Housing. (September 30, 2002). Of course, this study indicated the varying capacity for raising capital based on rent levels in various cities, rather than among developments within a PHA.

⁵⁵ The concern regarding replacement of project-based units with vouchers arose from language in PHRI allowing up to one-third of the units in any development, or more with HUD’s permission, to be rented to unsubsidized tenants. PHRI provided that to the extent this were done, the PHA would retain the contracted subsidy for the units in that project, and could use an additional voucher in the community. If the PHA later chose to rent more of the units to subsidized tenants, it would have to reduce the number of extra vouchers used in the community. In response to opposition to this proposal, in the 2004 version,

language retaining some restrictions on low-income use of such properties if a foreclosure occurred, but with enough flexibility to satisfy most potential lenders.

In its version of both 2003 and 2004 appropriations acts, the Senate agreed that PHAs needed another leveraging tool, but instead provided a federal loan guarantee when PHA borrowed against future capital funds.⁵⁶ The Senate's loan guarantee proposal did not raise the issues of limitations imposed by potential market rent constraints or potential foreclosures because it did not require that public housing properties be underwritten or mortgaged. The Senate proposal, however, also did not offer the additional discipline of property-based financing, the reduced regulation and steadier funding some perceived in a switch from public housing subsidies to project-based vouchers, or the additional ability to leverage funds in some high-rent markets. The administration's 2005 budget made no mention of PHRI, and the Senate Appropriations Committee's 2005 bill excluded the loan guarantee proposal.

7. *The lack of completed regulations and guidance continues to limit PHAs' options for transforming their public housing.*

Little controversy arose over HUD's failure to complete the regulatory job under the act. Nevertheless, because PHAs could not experiment with measures such as voluntary conversion of public housing to vouchers or capital fund-only and operating fund-only public housing developments, and they could only use other provisions, such as mortgaging public housing to generate additional funds, on a limited, individual transaction basis, the potential of these measures is unknown. The lack of guidance regarding matters such as using subsidiaries, coupled with OIG's initial findings regarding these arrangements, deters PHAs from legitimate leveraging for fear of being second-guessed, and it may contribute to more PHA mistakes.

8. *The combination of HUD's insistence on detailed transaction approval processes and limited staffing resources slows implementation of mixed-finance, capital fund borrowing, and other initiatives.*

HUD mainly processes mixed-finance proposals in Washington one transaction at a time. Although HUD argued that this was appropriate because it was making a 40-year federal funding commitment to each property, HUD's process was viewed by some as impeding progress and

HUD reduced the allowable amount of such units to an absolute limit of one-fourth of the units in the project.

⁵⁶ S. 2797, Section 208. 107th Cong. 2 sess., Government Printing Office, 2002. S. 1584, Section 221. 108th Cong. 1 sess., Government Printing Office, 2003. Neither this proposal nor PHRI was included in the final legislation for either year. The 2003 act conference report explicitly encourages the authorizing committees to explore additional financing tools.

discouraging more widespread use of this mechanism.⁵⁷ This also is an issue for capital fund borrowing and for individual innovative leveraging proposals, as discussed above.

D. Recommendations

The following are recommendations that HUD and Congress should consider to address the above issues.

1. *HOPE VI should continue at a restored funding level; emphasis should be on moving the projects in the pipeline and improving the fate of relocated residents.*

Great progress has been made in replacing or revitalizing severely distressed projects, but the effort is incomplete. The need clearly remains to provide significant grants for large-scale efforts to reverse severe and long-standing neighborhood distress. Loan programs, including initiatives such as financing against future capital fund appropriations, PHRI, or others to facilitate PHA borrowing, have great potential but are not a substitute for HOPE VI grants. In addition, a national focus on a discrete set of important public housing replacement projects is valuable. The criticisms of HOPE VI should be addressed with continued documentation of capacity in the selection process, stringent deadlines for progress, additional measures to help residents meet standards for returning to mixed-income sites, and additional support for those relocated with vouchers.

Congress was right to push for a selection process that ensures displaced families will have every reasonable opportunity to live in these revitalized communities. The policy should extend to current grants. The original families should be given appropriate assistance prior to their reoccupancy to meet reasonable screening standards, and those who do should be given priority to live in the improved public housing units. In addition, numerous PHAs should step up efforts to track voucher families and provide supportive services and mobility counseling both at relocation and in the years following relocation. Such expenses should be treated as necessary HOPE VI development costs.

2. *HUD should track, compile, and release additional data on demolition and replacement housing on programs other than HOPE VI, relocated families, and replacement vouchers.*

HUD must do a better job of compiling and making available data on demolition and replacement of public housing. The replacement data should cover the projects in programs other than HOPE VI. New data are also urgently needed on success among voucher users, their degree

⁵⁷ This point was made, for example, by an executive director of a large-city housing authority in the July 2003 discussion by NAHRO's Housing Subcommittee on QHWRA, who claimed that far more of such transactions might have been undertaken if the administrative process were not so burdensome. On the other hand, the HUD staff responsible for the program pointed out that no PHA ever had lost tax credits or other funding pledged to a project because of a delay in the HUD approval process.

of poverty and racial concentration, and progress toward self-sufficiency. Without additional data, evaluations of these redevelopment efforts and recommendations for improvements will be compromised.

3. *The demolition and disposition approval process should be examined carefully to ensure that the results are positive for affordable housing.*

PHAs should retain substantial discretion over demolition and disposition, but further examination of the likely results of their proposed plans is necessary. This is true especially when the housing proposed to be eliminated is older but serviceable. Plans to replace public housing with vouchers, as well as with other public or affordable housing, should be part of HUD's consideration whether a proposed transaction is justified.

4. *HUD should fully support PHAs' efforts to produce replacement public housing.*

The act envisioned not just demolition of obsolete public housing, but also replacement of a portion of the units with smaller-scale public housing that would be an asset to the community. The availability of this housing subsidy option remains important for many communities. PHAs need support to produce the replacement housing. HUD should carefully track progress, provide necessary technical assistance, and ensure that regulatory interpretations provide the funding originally contemplated.

5. *The capital fund financing initiative should be supported further by streamlining and settling the processing requirements and providing the necessary staff resources.*

Careful scrutiny of the improvements proposed to be financed with the capital fund is warranted in view of the considerable long-term commitment of future funds. HUD's other review requirements, however, should be reexamined with a view to shedding those that may add insufficient value in some situations (e.g., independent management assessments in addition to other reviews of a PHA's capabilities), or to imposing requirements more efficiently and uniformly (e.g., safe harbors regarding fees, loan structure, and interest rates rather than transaction-by-transaction independent "fairness opinions"). Some of the requirements may be varied to recognize lower-risk situations (e.g., some smaller transactions). HUD also should build on recent progress to more clearly establish the rules so that PHAs know what will be required of them. HUD must also provide the necessary staff or contractor support for expeditious processing.

6. *PHRI or a similar property-based capital financing mechanism should be enacted and implemented.*

Given the significant unmet capital needs of public housing, both the ability to borrow against future capital fund appropriations and the PHRI proposal are promising. The Senate's loan guarantee proposal would have similar results, but without a mechanism to force additional

management discipline. Further funding pressures on future appropriations make such steps all the more imperative.

Although the capital fund financing option is a very important innovation, both PHRI and the Senate's loan guarantee would allow substantial additional borrowing. Neither would require the current 3:1 ratio of projected capital funds to debt service, which currently restricts the size of those financings. The Senate loan guarantee would help locations where rents are too low to allow significant capital to be borrowed under PHRI, and for smaller PHAs that otherwise cannot raise the needed funding through capital fund borrowing. It could be tailored for use only in such situations.

An initiative such as PHRI has a broader rationale and potential. In addition to its leveraging potential, it would allow use of voucher rather than public housing resources in communities where this is advantageous, and it would add the discipline of requiring property-based financial management that is satisfactory to lenders. It also would broaden the constituencies interested in the fate of the public housing stock, as HOPE VI has done, and provide funding for additional capital investments where possible within market rent constraints. Congress should provide a leveraging mechanism along the lines of PHRI, notwithstanding the administration's 2005 budget decision to omit PHRI rather than label it the future of public housing. Congress should also institute changes to eliminate concerns raised by PHRI's original language allowing partial conversion to vouchers, and to provide for reasonable restriction of the property's use if foreclosure occurs (e.g., the property must be used to house low-income families). Congress also could limit the initial size of the initiative (e.g., to 10,000 units) and monitor issues that arise in implementation. HUD should consider the initiative's administration by the division that oversees assisted projects, which already administers similarly structured projects, rather than its public housing office.

7. *HUD should complete the regulations or guidance to allow the act's full implementation.*

The administration should complete the regulations or guidance necessary to allow full use of act's tools for leveraging funds and facilitating mixed-income communities. Capital fund-only subsidies could be used, for example, to lease housing that needs only modest investment for low-income use for 10 to 15 years. Operating fund-only subsidies could allow more flexible use of public housing resources for voucher-like activities on a short-term basis. Among other possibilities, mortgaging properties could be combined with pledging future capital funds and pledging rents and operating funds to create a property-based public housing financing alternative. The sensitive implementation of required and voluntary conversion of public housing to vouchers under the act also might lead to housing improvements in a number of communities. Clarification is urgently needed regarding permissible practices for using subsidiaries and for providing, guaranteeing, or obtaining loans by PHAs.

8. HUD should expedite processing through a more wholesale approach and adequate staffing.

HUD should find a more expeditious way to process mixed-finance, borrowing, and mortgaging transactions than the painstaking individual reviews, at least once the elements of transactions become more routine. HUD's publication in early 2003 of draft standard-form, mixed-finance documents is a step in the right direction. Generally, HUD must allow more local responsibility for risk by such means as accepting PHA certifications regarding fulfillment of requirements if the full leveraging envisioned by the act is to occur. HUD also must supplement its current staff and expertise, both to handle processing and to provide adequate local guidance, particularly for smaller PHAs.

III. INCREASING TENANT SELF-SUFFICIENCY AND REDUCING POVERTY CONCENTRATION

Efforts to transform public housing and the voucher system were not limited to physical structures and subsidy types. They also extended to the families served. Their transformation was to be achieved through both direct measures to promote self-sufficiency and indirect effects of providing housing in neighborhoods with a mix of working families (see Table 4 for the act's major provisions for self-sufficiency and poverty deconcentration).

Both the need to increase tenant self-sufficiency and end concentration of welfare families in public housing were substantial aims of the act, as is evident in the required annual report to Congress that assesses the demographics of subsidy recipients and the effectiveness of rent policies in promoting employment and increasing earned income among residents.⁵⁸ The theme of self-sufficiency and work responsibility paralleled the comprehensive reform of the federal welfare system, which had passed two years earlier and is reflected in the act's title.

With respect to concentrated poverty, the first two points of HUD secretary Cisneros' 1996 status report were that "Public housing concentrates the very poor," and that "Public housing is itself concentrated in high-poverty neighborhoods." Average income of families living in public housing was approximately 17 percent of area median income, or \$6,100.⁵⁹ Chicago's public housing was the extreme example, where public housing largely populated 11 of the nation's poorest census tracts. Although the problem was expressed in terms of income, much of the discussion concerned the lack of employed role models in public housing, the devastating isolation from the rest of their communities and even public and commercial services, and the concentration of families with serious problems.

⁵⁸ See P. L. 105-276, Title V, Section 581. The statute also required that the act address the economic viability of PHAs.

⁵⁹ Henry G. Cisneros, "The Transformation of America's Public Housing: A 1996 Status Report" (Washington: HUD, 1996), p. 1.

Table 4. Self-Sufficiency and Poverty Deconcentration Initiatives

	Year Implemented
Require a choice of flat as well as income-based public housing rent, to support work efforts by not penalizing increased earnings	1999
Require a public housing earned income disregard for rent calculation purposes	1999
Allow PHAs to adopt additional public housing rent incentives	1998
Require an incentive for PHA efforts to increase the incomes of current tenants in the Operating Fund formula	2001
Require a cooperation agreement with local welfare and employment agencies to target supportive services	2000
Authorize the Resident Opportunities and Supportive Services (ROSS) program	1998
End rent reductions for families penalized for violating welfare self-sufficiency rules	1999
Allow PHAs to adopt minimum rents	1999
Require public housing community service	2001; 2003
Require or authorize measures to bolster screening out and eviction of criminals	(1996) 2000
Authorize HOPE VI program*	(1992) 1998
Repeal federal admissions preferences*	(1995) 1998
Adopt flexible income targeting for public housing and maintain substantial income targeting for vouchers*	1999
Authorize site-based waiting lists	1999
Regulate development-by-development public housing deconcentration	2001

Note. Year implemented is the year that the initiative could be put into effect locally. Years listed in parentheses are initial implementation dates for provisions adopted prior to passage of the act; they are followed by the implementation date for the corresponding, often more specific, act provision. Some provisions were implemented partially at different times, and thus more than one date is listed.

* *These were the most basic changes, as well as the rent changes taken as a whole.*

Self-sufficiency initiatives. Several of the measures addressed the perceived disincentive to work inherent in the income-rent calculation for public housing, vouchers, and assisted housing. These programs required that families pay 30 percent of their adjusted incomes for rents. Although intended to ensure affordable rents, a by-product of this 35-year-old provision—called the “Brooke amendment”⁶⁰-- is that 30 cents of each additional dollar a tenant earns must be spent on rent. This reduction in net earnings occurs in addition to the phase-out or cutoff of other family supports (although receipt of the Earned Income Tax Credit—EITC-- can provide some relief).

⁶⁰ The Brooke Amendment, named after Senator Edward Brooke of Massachusetts, originally was a series of amendments to the United States Housing Act of 1937 adopted in 1969 and 1970. Prior to that time, PHAs could charge tenants in amounts necessary so that their public housing would break even financially. In recognition that the incomes of incoming tenants were decreasing, and to protect these tenants, the Brooke Amendment originally capped these rents at 25 percent of their adjusted incomes. The percentage was raised to 30 percent in 1981.

Other by-products of this rent computation, or any other system that charges rents based on income, include the need for officials to examine tenant income and an incentive for tenants to hide their incomes from the PHAs. In addition, to provide further tenant protections and address various family situations over the years, Congress and HUD added various exclusions and deductions from the calculation of income, which further complicated the system's administration.

The dilemma was that any "fix" that is cost-neutral, including the numerous exclusions and deductions, typically would result in increased rents for the lowest-income families. The House of Representatives had attempted to change the rent provisions in its 1996 version of the act to allow PHAs to set "appropriate" rents.⁶¹ The House dropped this provision in its 1997 version of the act, after intense political opposition from tenant advocates. However, the final act did include several provisions to address the disincentives and to encourage self-sufficiency.

Self-sufficiency support: rent changes. The act allowed rents to be set below 30 percent of adjusted income through various mechanisms. These included requiring that public housing tenants have a choice of a "flat rent" rather than having their rents continue to increase as their incomes increase. This "choice of rent" provision was to serve poverty deconcentration as well as self-sufficiency goals by assuring that income-based public housing rents would not drive away working tenants. The act required that the flat rent be based on the unit's market value and also that it be designed to "encourage and reward employment and economic self-sufficiency."

The act also required that 100 percent of a tenant's increased earnings in the first year be disregarded from the rent calculation, and 50 percent of such earnings be disregarded in the second year. This applied to current or recent welfare recipients, persons in training programs, or unemployed persons who begin work. For these families, increased rents resulting from their new earned income would be phased in. In addition, Congress gave PHAs the discretion to grant additional rent incentives, and directed that the operating fund formula provide an incentive for PHAs to promote increases in income by tenants in occupancy (as opposed to admission of new tenants with higher incomes). PHAs presumably were to promote such income increases through the discretionary rent incentives, coordination or provision of self-sufficiency programs for their tenants, and other similar efforts.

These changes affected only public housing because the financial impact of the changes could be absorbed without automatically triggering future appropriations. Thus, future congresses could decide whether to appropriate additional public housing operating funds or force PHAs to absorb any costs of the reduced rents. This was not a choice the voucher program, where, under the practice at the time, lower tenant rents automatically would increase the expected appropriation. The earned income disregard was enacted for the voucher program but subject to appropriations, which have never been provided.

⁶¹ H.R. 2460, Section 225.

Self-sufficiency: supportive services. PHAs were required to make “best efforts” to involve welfare and employment agencies offering supportive services for public housing and voucher families, and provide sharing of income, work effort, and related enforcement information. Congress also authorized a supportive service grant program for public housing residents, the Resident Opportunities and Supportive Services Program (ROSS), codifying a relatively small-scale initiative (under \$50 million annually) that had been included in the last several years’ appropriations acts. The act also mandated that HUD assess PHAs’ coordination, provision, or promotion of economic self-sufficiency activities as part of its management performance evaluation system. This system evaluates PHAs’ performance in several activities and provides an overall grade to determine which PHAs are designated “high performers,” “standard performers,” or “troubled” (discussed at length in section IV).

Self-sufficiency penalties. The act included several penalties for able adults who did not work. For instance, a family whose welfare payments were penalized would not have the blow softened through a drop in rent equal to 30 percent of its reduced income. This change applied to both the public housing and voucher programs, but not to assisted projects. Other measures included PHA discretion to charge minimum rents up to \$50 (but not to evict if the rent was unpaid). PHAs could also require that families perform eight hours per month of community service, with broad exemptions for the elderly, disabled, workers, and persons exempt from or in families in compliance with welfare program requirements. The act also strengthened applicant screening and tenant eviction statutes to address criminal behavior and drug use. All these initiatives were bipartisan, although the details, particularly of the community service provision, were hard-fought. The community service proposal was introduced prior to welfare reform and was never reconsidered in its entirety after welfare reform was enacted.

Although these changes imposed various requirements, the act repealed a previous requirement to add a family to the Family Self-Sufficiency (FSS) program with each new voucher or new public housing unit. Under FSS, families who contract to meet self-sufficiency goals can put into escrow funds they would have paid as rent as their incomes increase, given that the escrow was to be used for education and homeownership. FSS families were also to receive concentrated supportive services. FSS principally had been required for the voucher program because that program had been expanding; more than 50,000 voucher families but only about 5,000 public housing families were participating in FSS. Under the new act, PHAs had to honor current FSS requirements, including requirements for FSS slots they had not filled previously. They would not, however, be subject to new requirements. More fundamentally, Congress also rejected a House provision to require FSS-type contracts of all nonelderly or disabled public housing and voucher families, and never closely considered broader measures such as time limits on housing assistance.⁶²

⁶² The House provision was Section 105(b) of H.R. 2.

Poverty deconcentration initiatives. Initiatives to ease the concentration of poverty were intended to support, nurture, and reflect the self-sufficiency initiatives and to provide for subsidized housing in more viable neighborhoods. Poverty deconcentration could be carried out by: (1) increasing incomes or increasing work among existing public housing tenants; (2) admitting relatively higher-income families to public housing; and (3) moving more voucher families to relatively low-poverty areas.

With respect to new public housing admissions, the most dramatic approach was replacing distressed public housing with new communities that clearly could attract families with a range of incomes. The limited availability of the HOPE VI grants or other capital commitments left most public housing unaffected.

Public housing income targeting and local admissions preferences. The act replaced previously required “federal preferences” in the public housing, voucher, and assisted housing programs. The federal preferences had favored families who were homeless or displaced, living in substandard housing, or paying more than half their incomes for rents. This focus had resulted in housing the most destitute families. Their impact on poverty concentration was particularly strong in densely built high-rise or very large low-rise projects. The act instead allowed PHAs to set their own preferences for admissions, for example, favoring families with a working member.

Instead, the act imposed an income targeting requirement that generally reserved 40 percent of newly occupied units each year for families with incomes below 30 percent of the median (approximately the poverty line, depending on the location). Thirty percent was chosen because HUD studies showed that families with incomes below that level were far more likely to have severe housing needs than families even with slightly higher incomes.⁶³ PHAs, however, could request exceptions to income targeting rules. The income targeting requirement was set low enough to allow far more of an income mix in public housing than the situation at the time; 70 percent of existing families had incomes below 30 percent of median.

Site-based waiting lists. An impediment to attracting a different mix of families was mandated communitywide waiting lists, originally imposed to ensure that PHAs would not steer residents to particular neighborhoods based on race. Essentially, an applicant would have to accept the public housing unit available or return to the bottom of the waiting list. Particularly in large jurisdictions, the available unit might be far from a location the applicant would find convenient or otherwise acceptable. The purpose of the communitywide waiting list was laudable, but the result

⁶³ HUD defines “worst case housing needs” as unassisted renters with very low incomes (below 50 percent of area median income) who pay more than one-half of their income for housing or live in severely substandard housing. In 1999, more than two-thirds of renters not receiving housing assistance with incomes below 30 percent of the median had worst-case housing needs, compared with 28 percent of such renters with incomes between 31 and 40 percent of median, and only 8 percent of such renters with incomes between 51 and 60 percent of median. HUD Office of Policy Development and Research, “Trends in Worst Case Needs for Housing, 1978-1999: A Report to Congress on Worst Case Housing Needs, Plus Update on Worst Case Needs in 2001 (December 2003) pp. ix, xi.

was that a prospective applicant willing to live at some but not all public housing locations was faced with limited choices and an often fruitless wait. Many simply did not sign up for public housing. The act allowed site-based waiting lists, with an explicit requirement that the lists comply with civil rights laws. It was hoped that this greater flexibility would entice families with somewhat higher incomes. The act left the regulation details to HUD.

Balanced development-by-development poverty deconcentration. Not all of the poverty concentration concerns that the act addressed were related to PHAs' ability to attract relatively higher-income families to public housing. Late in the legislative process, Congress added provisions to address a concern raised by HUD secretary Cuomo that the act's additional admissions flexibility might result in "lower-income" and "higher-income" public housing developments, depending on their desirability. Part of the concern was that the lower-income developments would more likely be all-minority families. At the extreme, the feared result was two classes of public housing, identifiable by race. Thus, the act prohibited concentrating relatively low-income families and generally required PHAs to adopt admissions policies designed to bring higher-income tenants into lower-income projects and lower-income tenants into higher-income projects, without defining those terms.

Vouchers and poverty deconcentration. Officials also viewed the voucher program as a tool to address concentrated poverty because families could use their vouchers anywhere in the community. In 1996, a General Accounting Office (GAO) study of four metropolitan areas found that although 23 percent of public housing residents lived in high-poverty neighborhoods, fewer than 10 percent of tenant-based Section 8 recipients lived in such neighborhoods.⁶⁴ The act recognized this difference by reserving 75 percent of the new slots in PHA voucher programs for families with incomes less than 30 percent of the median, nearly twice the share of such families reserved for public housing. This targeting would slightly increase the portion of extremely low-income families admitted to the voucher program. The act also allowed PHAs the flexibility to set voucher subsidies at higher levels. This measure, discussed in section 5, gave potential voucher holders a better chance of finding a unit, eased their rent burdens, and allowed for housing choices in more neighborhoods.

Overall compromise. The act's income targeting distinction between the public housing and voucher programs was the resolution of an acrimonious dispute between those concerned about concentrated poverty in public housing and providing more working families access to housing subsidies, and those concerned that the poorest families with the greatest housing needs increasingly would be shut out from affordable housing. At one point, the Clinton administration issued press releases projecting millions of extremely low-income families shut out of assisted housing under the House bill.⁶⁵ The administration's campaign resulted in more income targeting to

⁶⁴ This study is referenced in Cisneros, "The Transformation of America's Public Housing."

⁶⁵ See, e.g., "America's Most Vulnerable List: 1.8 Million Poor Seniors and Children Locked Out of Nation's Housing," HUD Press (July 16, 1998), released as the House was considering H.R. 2. The press release listed by state the number of "extremely low income households who could be displaced under H.R. 2."

extremely low-income families in the voucher program than either the Senate or the House had proposed.⁶⁶

A. HUD Implementation

The act called for swift implementation of the new rent and income targeting provisions, coupled with repeal of federal preferences that had been implemented based on previous annual appropriations enactments. HUD met the demanding implementation requirements, but PHAs struggled with the complexity of, and lack of training regarding, some of the rent provisions. Both the community service and balanced development-by-development poverty deconcentration requirements remained in dispute even after the act was enacted, and implementation was on again, off again for several years.

1. Self-sufficiency Initiatives

The act assigned a very tight schedule for local implementation of rent changes. HUD mandated that public housing flat rents be set at market rates, without further mandatory reductions to encourage self-sufficiency. HUD could have used the statute's directive on encouraging self-sufficiency to require substantial rent reductions. However, the administration chose not to add this expense to the program in view of vague statutory language and the lack of a clear mandate. HUD offered little training prior to implementation, and thus the PHAs were left to implement complex provisions, such as the mandatory earned income disregard, based only on their reading and understanding of the new regulations.

To assist in targeting supportive services, HUD published a model cooperation agreement between a PHA and its local welfare or employment agencies.⁶⁷ HUD implemented the ROSS program through annual funding competitions, which encouraged somewhat different supportive services from year to year. The measures that were required under the PHA management performance evaluation system were implemented by HUD in a manner that did not give PHAs credit for attracting supportive services, as opposed to their direct administration of supportive services programs with the limited grant funding they received for this purpose.

The new operating fund formula, like the capital fund formula, was implemented through a negotiated rulemaking process, as required. A negotiated interim rule published in 2001 provided an incentive for PHAs to seek rent increases. The rule allowed PHAs to keep portions of any rent increases for three years, rather than deduct them from the formula's allowable expenses in determining their subsidy amount. The interim rule did not reflect the act's important distinction

⁶⁶ The Senate provision required that at least 65 percent of voucher families admitted to the program annually have incomes at the extremely low income level, defined as below the 30 percent of area median. The House bill required at least 35 percent of such families to have incomes in this range. The final legislation set the minimum at 75 percent.

⁶⁷ See PIH Notice 2000-11, May 9, 2000.

between earned income increases by existing tenants and higher income levels of new tenants; making such a distinction would have added administrative complexity and was disfavored by PHA groups. Instead, any rent increase qualified for revenue sharing between PHAs and the federal government. The results of additional rulemaking in mid-2004, discussed in section 5, were even more extreme and included a four-year rent freeze for formula calculation purposes. Under that proposal, PHAs would retain every dollar of increased tenant rents over the next several years.

HUD required that the community service law be implemented by October 2000, or later for some PHAs. The law was later suspended by Congress for 2002, with some likening the law to involuntary servitude. It was, however, reimposed in 2003 after the Bush administration made clear its opposition to further suspension. HUD's regulations allowed substantial flexibility in the type of service that would meet the requirement.

2. *Initiatives Addressing Poverty Concentration.*

To ensure that site-based waiting lists complied with civil rights laws, HUD required that each PHA housing application site provide information on all of the PHA's developments and estimated waiting times for each site. In addition, HUD required PHAs every three years to use independent "tester" applicants, whose experience HUD would monitor to detect any applicant steering to particular developments. HUD also expeditiously implemented provisions to address poverty concentration with vouchers (discussed more fully in section 4).

The rule mandating the admission of higher-income families into lower-income developments and vice versa was changed several times after its introduction. Although HUD initially published a rule with local admissions flexibility, in early 2000, and with much fanfare, it promulgated a proposed rule that would have constrained the choices of each applicant to family public housing based on the average income of each public housing building and the applicant's income. Secretary Cuomo announced the regulation with several prominent civil rights leaders and some PHA officials at his side. The regulation generated protest by public housing officials and others, however, who argued that virtually all public housing applicants and residents are very poor by any reasonable standard and that this level of micromanagement and limited housing choice was counterproductive. HUD cited no examples where segregation of developments by income was substantial and followed an identifiable racial pattern. For many large cities, public housing tenants and applicants were virtually all one race.

In the last month of the Clinton administration, HUD published a final rule with some additional flexibility. The rule excluded developments in small PHAs, and excluded family developments within an income range of 85 to 115 percent of a PHA's average income at those developments. The Bush administration later expanded the flexibility by preventing a development with average family income below 30 percent of the median—or "extremely low income" according to the act's definition—from being labeled a "higher income project" in that PHA and to which "lower income" applicants would have to be directed.

B. Progress

If the measure of progress toward promoting self-sufficiency and addressing poverty concentration is the number of families with a working member, great progress has been made in both the public housing and voucher programs since the mid-1990s. Whether the act alone is accountable for the progress, however, is less clear given the booming economy and the newly implemented welfare reform. Further, gains were far less demonstrative when measuring self-sufficiency by family income rather than workforce participation. The same applies for deconcentrated poverty among voucher holders, where further information is needed.

Nevertheless, increases are striking in the number of working families. For both the public housing and voucher programs, each year through 2003 saw at least 15 percent of families with children replace welfare with work as their primary source of income. (This does not factor in families that moved from work to welfare, which was 4–5 percent between 2002 and 2003.) The portion of families whose largest source of income was work increased from 31 percent in the public housing program and 35 percent in the voucher program in mid-1995 to about 50 percent in both programs by the end of 2001. The figure slipped to 46 percent by 2003. The gains, however, were almost certainly the result of the economy and welfare reform than the act. Even with this progress, median incomes of public housing and voucher families through 2001 were increasing no more than average incomes in the bottom quintile of the general population.⁶⁸

More specifically, from 1997 through 2002, in real terms, average household income grew by 5.2 percent in the public housing program and 2.2 percent in the voucher program. Average incomes for families with children increased more: 7.6 percent in the public housing program and 4.1 percent in the voucher program. Real median incomes of households in both programs, however, showed little change, rising or falling less than 2 percent. Thus, low-wage work was replacing public assistance. The percentages of families with incomes below 30 percent of the median increased to 76 percent in the public housing program and to 79 percent in the voucher program, influenced by the relatively stringent income targeting requirements for vouchers.⁶⁹ The percentage with incomes less than half the median also increased somewhat in both programs.

Recent data break out the percentages by prior tenants and newly admitted families. As of 2003, 42.3 percent of newly admitted families with children had income from work compared with 46.8 percent of prior tenants in the public housing program. Similarly, in the voucher program, the proportions were 45.1 percent and 47.4 percent, respectively. The average incomes of new admissions also were also lower: \$8,664 versus \$11,083 for prior public housing residents, and \$10,379 versus \$11,151, respectively, in the voucher program.

⁶⁸ HUD, "Fifth Annual Report to Congress on the Quality Housing and Work Responsibility Act of 1998," submitted to congressional housing authorizing and appropriations committees on August 30, 2004, pp. 7-8.

⁶⁹ *Ibid.*, p. 9.

1. *Self-sufficiency Initiatives*

The impact of the act on self-sufficiency is unclear. Individual initiatives had different effects. PHAs, for example, implemented the choice of rent system in public housing in various ways. Some imposed flat rents at rates lower than HUD's market-based rents, but in most cases, the flat rents were set at market value and were high enough that relatively few families were affected. The flat rents were particularly important for some developments in weak rental markets, however, where they could be set at low enough levels to attract tenants and prevent unnecessary vacancies or tenant turnover.⁷⁰

Implementing the complex earned income disregards for working families proved difficult and confusing for PHAs. It applied to subgroups of families and was difficult to track because individuals tend to frequently enter and leave work. Legal service groups suspected widespread noncompliance.⁷¹ PHAs also were accused of failing to market this incentive, and thus compromising its value. Others raised concerns about the provision's fairness and usefulness because it provided no help for persons already working who increased their earnings or to support additional work expenses. PHA directors also claimed that some families whose earnings increased made financial commitments prior to the scheduled rent increases based on their increased incomes, making the increases impossible to handle. HUD estimated that the annual cost of this provision was relatively minor, well under \$100 million.⁷² Thus, its overall effect was most likely small, although the disregard certainly provided some critical help to the families who received it.

With respect to the rent system more generally, studies have estimated about \$1.7 billion in erroneous rent payments for both programs, including overpayments and underpayments. Following significant HUD attention to this matter, including more than 700 detailed reviews of PHA practices, the estimate declined to about \$1.1 billion (about \$700 million in estimated overpayments and \$400 million in underpayments). This compares to the two programs' rent collections of about \$6.5 to \$7 billion. The biggest problem seemed to be verifying earned income, rather than complex rules. However, administering the rent rules was time-consuming. This complexity undoubtedly diverted attention from verification activities.⁷³ The complexity preceded the act; it offered nearly 20 exclusions from the income calculation in the regulations. However, the act's choice of rents, the mandatory earned income disregard, and requirement that rents not decline when a family was penalized for welfare noncompliance added, rather than reduced, complexity. All told, HUD

⁷⁰ In particular, for a number of PHAs in rural or small-city markets in the mid-South and Midwest, PHAs were able to obtain higher occupancy levels by setting flat rents at low levels in recognition that market rents were extremely low.

⁷¹ Discussion with Catherine Bishop, National Housing Law Project, December 2003.

⁷² "Relatively minimal" is compared to public housing operating and capital subsidies in the \$6 billion annual range, and tax losses or direct funding available in connection with the earned income tax credit and federal employment training subsidies.

⁷³ See generally HUD, "Quality Control for Rental Assistance Subsidies Determinations: Final Report" (June 2001).

estimated that the client interview, information verification, and calculation process takes four to five hours per household if properly completed, even with the assistance of a HUD-developed “rent calculator”.⁷⁴

PHAs entered into the required cooperation agreements with local welfare and other agencies, but they did not compile amounts of funds leveraged. Requirements to assess PHA coordination, provision, or promotion of self-sufficiency efforts as part of PHAs’ performance evaluation had little apparent impact, with HUD only evaluating PHAs’ direct administration of programs. Few PHAs implemented the discretionary earned income disregards in calculating rent. Most were unwilling to take the risk that such disregards would result in increased tenant incomes, or savings in administrative costs, sufficient to offset rent losses associated with the disregards.

PHAs in several large cities did not adopt a minimum rent, which they viewed as either unenforceable without the ability to evict tenants who failed to pay it or as a hardship for the poorest families. Many PHAs, however, ignored the enforceability issue and adopted minimum rents.

Although the majority of families were exempt from the community service law, PHAs were still charged with keeping track of the exemptions and communicating with the exempt families about their continuing status.

The act did not allow for changing rents outside the parameters of the Brooke amendment to promote self-sufficiency, for tying occupancy or rent levels to self-sufficiency efforts, or for imposing time limits on housing assistance (as was the case for welfare reform). Under the Moving to Work (MTW) demonstration, enacted in 1996, up to 30 PHAs were allowed to experiment with such measures. Many tried alternative measures to encourage work efforts, such as greater use of flat rents or use of rents that increased over time. These PHAs generally claimed that their efforts had bolstered tenant self-sufficiency, but the direct effect of those changes on resident outcomes could not be demonstrated. Eight PHAs tried some form of time limits as part of their MTW demonstrations. Although it is too early to determine their effects, one PHA (Delaware) already lengthened its time limit from three to five years.⁷⁵ One very large PHA, Philadelphia, imposed a seven-year time limit and a work requirement on voucher recipients.

⁷⁴ In the HUD 2004 appropriations act, Section 217, Congress enacted a HUD proposal to provide access to the Department of Health and Human Services’ Directory of New Hires as an additional income verification tool.

⁷⁵ Delaware sought and obtained HUD permission in 2002 to amend its Moving to Work agreement accordingly. The cooperation agreement implementation information is based on a 2003 internal HUD staff review that indicated that the 25 largest PHAs all indicated in their PHA plans that they had cooperation agreements in place. With respect to the Moving to Work demonstration, the most comprehensive assessment was Martin D. Abravanel, Robin E. Smith, Margery Austin Turner, Elizabeth C. Cove, Laura E. Harris, and Carlos A. Manjarrez, “Housing Agency Responses to Federal Deregulation: An Assessment of HUD’s “Moving to Work” Demonstration” (Washington: Urban Institute, January 2004).

In contrast to the lack of definitive MTW results, studies showed the FSS program to be quite successful, despite the fact that PHAs almost never used program sanctions to discipline families, other than termination from the FSS program.⁷⁶

2. Poverty Deconcentration Initiatives

Breaking up concentrated poverty occurred largely through the replacement of large, distressed public housing projects with vouchers and mixed-income housing. A Brookings Institution study documented dramatic declines in inner-city poverty concentration in the 1990s; in Chicago, demolitions clearly contributed to this result.⁷⁷ The success in attracting more working or higher-income families to non-HOPE VI housing is unclear given the limited information available on new admissions. Again, the evidence indicated that changes occurred in the percentage of families working, rather than in their income levels.

The act's measures permitted but could not require efforts to address concentrated poverty, and PHAs responded differently in setting admissions preferences. A 2003 internal HUD study based on a representative sample of plans from PHAs with more than 250 housing units indicated that the most common preference, used by 62 percent of PHAs representing 72 percent of public housing units, was for "working families and those unable to work because of age or disability."⁷⁸ Others chose to serve those most in need and did not take this step.⁷⁹ Some PHAs (about 5 percent) simply admitted families based on their application dates. The income targeting requirements had little effect on the income mix of newly admitted families to public housing for most PHAs, because their applicant pools largely consisted of extremely low-income families.

Fewer PHAs than expected took advantage of site-based waiting lists. Some cities were discouraged by HUD's administrative requirements. The list of those cities that did adopt waiting lists appeared to be growing, however, extending to smaller cities such as Chattanooga, Tennessee. The development-by-development provisions, as modified under both administrations, appeared to have little effect, largely because the average family incomes were similar in most PHA family developments. Efforts to ease poverty concentration under the voucher program continued (discussed later). Studies, however, are limited.

⁷⁶ For a thorough and positive review, see Barbara Sard, "The Family Self-Sufficiency Program: HUD's Best Kept Secret for Employment and Asset Growth" (Washington: Center on Budget and Policy Priorities, April 2001).

⁷⁷ Paul Jargowsky, "Stunning Progress, Hidden Problems: The Dramatic Decline of Concentrated Poverty in the 1990s" (Washington: Brookings Institution, 2003).

⁷⁸ Fifth Annual Report to Congress, p. 6.

⁷⁹ Portland, Oregon, is a good example of a PHA that made this decision after substantial deliberation. Discussion with Dennis West, then Executive Director, Portland Housing Authority, 1999. HUD previously had completed two early studies of PHAs' use of this discretion: *The Uses of Discretionary Authority in the Public Housing Program* (July 1999) and *The Uses of Discretionary Authority in the Tenant Based Section 8 Program* (November 2000).

Residents of lower- to middle-income neighborhoods in some cities complained loudly about the impact of voucher families on their neighborhoods. The complaints influenced an emotional local campaign in Philadelphia. The issue was prominent in several other cities, including Prince George's County, Maryland, and Baltimore, but was rarely a "front-burner" issue. The act's new tools, such as PHA screening and termination of voucher assistance, mitigated, but generally did not eliminate, these concerns.⁸⁰

PHAs in some rural areas complained about the stringency of the required voucher income targeting. A few claimed that demand for the vouchers by families with extremely low incomes was insufficient to use the vouchers awarded. In addition, complaints occasionally surfaced that families with two low-wage workers, or other sympathetic types of families, were excluded to meet the requirement. HUD, however, had received only about a dozen requests from PHAs for exceptions to the targeting requirement as of mid-2003.

C. Issues

1. *Families' progress toward self-sufficiency has been considerable as measured by workforce participation, but less so in terms of increased income.*

That the percentage of working families increased at a much greater rate than did family incomes raises the question of planners original intent. If the goal were to increase role models in public housing and encourage responsibility among families, the rise in working families would indicate significant progress. If, however, the goal were to encourage a mix of families who could attract and effectively demand services for their neighborhood, more progress is needed. If the goal were to improve families' financial plight, only limited progress has been made.

2. *The act's rent changes have complicated an already complicated rent system and raised equity issues, without clearly demonstrating effectiveness.*

The mandatory earned income disregard in public housing particularly highlights these concerns. Although the choice of rent provision avoids such equity concerns, it adds unnecessary complexity. Moreover, the overall effect of these incentives is unclear. In terms of increased median income, income from work, and leaving welfare for work, no conclusive difference is evident between public housing residents and voucher holders who did not receive rent incentives (but also were not necessarily at the same starting point).

⁸⁰ For example, previous practice had been to leave the screening of voucher applicants to private landlords. The Milwaukee Housing Authority decided to screen all such applicants independently, without relieving the responsibility of landlords also to do so. The Philadelphia Housing Authority took several of these steps.

3. *Data and analytical gaps handicap assessment of the self-sufficiency and poverty deconcentration initiatives.*

The relatively small magnitude of the earned income disregard and other rent changes relative to families' work efforts makes assessment difficult. In addition, basic gaps exist in data analysis of the effects of this and other initiatives. For example, analysts have not compared the demographics of new and long-standing participants in the programs when assessing admissions changes, nor have they assessed the degree of leveraging of supportive services funds under cooperation agreements or other laws, even on a case study basis. Finally, analysts have not consistently compiled the extent to which PHAs use their admissions and rent-related authority under the act.

4. *The act's community service requirement continues to meet with great resistance.*

Opposition to the community service requirement is substantial, despite broad exemptions and considerable flexibility. The requirement is viewed by many as not constructive for the participants, administratively burdensome, and another sign to tenants and applicants that "the projects" are different from other housing.

5. *The impact of the act's increased public housing admissions flexibility remains unclear.*

The effect of less restrictive income targeting is a central issue, but it is too early to draw conclusions. Any substantial changes to tenant composition in will occur over several years, not in a short period. The changes can occur only with occupant turnover, now about 10 percent of the units per year. Moreover, the experience thus far is that the average income of new families is below that of existing tenants. One would expect the new rent freeze for operating subsidy calculation purposes would push PHAs harder to admit relatively higher-income families, particularly as PHAs are squeezed by operating funding.

6. *The success of efforts to address concentrated poverty may be limited primarily to HOPE VI developments.*

Whether public housing communities can attract relatively higher-income families, and how much difference it will make to those communities, is yet unknown for developments other than HOPE VI, mixed-finance developments with enormous capital investments. The results of efforts to admit relatively higher-income families, of course, will vary by site location, condition, and general desirability. Over time, they will depend greatly on PHAs' ability to improve conditions and thus on the available resources. A poorly located, unrenovated, overly dense site will not suddenly attract a mix of families simply because PHAs have greater admissions flexibility.

7. *Recent administration proposals to turn rental vouchers into block grants, if enacted, would eliminate the Brooke amendment rent protections and income targeting.*

In conjunction with both its 2004 and 2005 budgets, the administration proposed turning the voucher program into a block grant, which would allow states (in 2004) and PHAs (in 2005) to establish rent and admissions policies outside the boundaries of the Brooke amendment and the act's income targeting. (The budget evolution, especially the 2005 proposal, is discussed in section 5.) The administration neither argued for similar rent policies in public housing, except on a demonstration basis, nor did it argue that the act's envisioned use of vouchers to ensure access to affordable housing for the poorest families was wrong or unworkable. Although the 2005 proposal was excluded from the appropriations act that year, some form of the proposal is likely to return.

D. Recommendations

1. *Several of the act's specific rent provisions can and should be simplified, without changing their purpose or their cost.*

The rent provisions, including income disregards and providing each public housing tenant an annual choice of rent, seem ripe for substantial simplification. Even without consensus on broader changes, the choice of rent provision could be recast to impose a rent ceiling at market rates. A delay in raising rents (resulting from greater earned income) until a family had reached a second annual rent recertification would be simpler and more equitable than the current income disregard. Such a change could be accompanied by a rent differential that recognized work expenses. Such simplifications should be identified and pursued promptly as a local PHA option if a national requirement is too controversial.

2. *Broader rent simplification should be pursued, consistent with the general parameters of the Brooke amendment.*

Although further rent simplification is important, there are also compelling counter considerations. The current system is complicated, in part, because it attempts to ensure affordability and protect low-income families from other difficult situations (e.g., by providing deductions for medical expenses for disabled members of a family or child care expenses to support individuals' work or education efforts). The conflicting tensions in the system's goals—ensuring affordability, addressing hardship, supporting self-sufficiency, and limiting subsidy expenditures—constrain solutions.

Ensuring housing affordability for the poorest families is fundamental enough to insist that the rent simplification proposals remain aligned with the general affordability parameters of the Brooke amendment, despite the limitations this decision places on rent simplification. Moreover, the Brooke amendment's constraint on tenant rents gives shape to the program's affordability goal, and thus to PHAs' subsidy needs (although this impact would be eroded by the proposed four-year rent freeze in PHAs' operating subsidy calculations). Without this national program direction and with

PHAs free to determine rent levels locally, it would become much more difficult to argue that specific subsidy amounts are needed. Reaching consensus to accomplish reform would also be facilitated by this basic parameter.

For the reasons enumerated above, however, substantial compromises within the general context of the Brooke amendment should be considered. For example, for tenants within fairly tightly defined income ranges, PHAs could be allowed to set flat or income-based rents up to about 30 percent of simplified adjusted incomes. The defined income ranges should include an income range low enough to protect tenants now subject to minimum rent provisions. Mandatory deductions or exclusions from income for rent calculations could be simplified to recognize only the desirability and cost of working (including child care), an elderly or disabled status, and extraordinarily high medical expenses of the elderly or persons with disabilities. The possibility of requiring income recertification every two years rather than annually, which would likely be a substantial simplification but could also be expensive, should be considered as well.

3. HUD should evaluate progress on self-sufficiency and poverty deconcentration.

This effort could be an expansion of the annual report to Congress on the act, which addresses demographics and the effect of rent incentives. It should, however, extend further to assess the effect of the new admissions rules and other provisions of the act (e.g., public housing choice of rent and earned income disregard, local preferences, and the effect of the local cooperation agreements required by the act). More information is needed on the effect of efforts to limit concentrated poverty and on efforts to attract working or higher-income families. The evaluation should include such indicators as crime rates in public housing and educational attainment in neighboring schools.

4. The act's community service requirement should be a local PHA option.

The community service requirement is fairly minimal but administratively burdensome relative to its likely impact, and sets public housing families apart from others, even in subsidized housing. Families that also receive welfare assistance are subject to the self-sufficiency requirements of that program. Some PHAs and their communities may value the community service mandate, but most will likely assume that their scarce resources can be better directed to other means of assisting residents.

5. HUD should more actively encourage PHAs to leverage supportive service funds.

The act's other provisions intended to encourage work, notably the ROSS program and the requirement for cooperation agreements, could be more effective if PHAs were pushed harder to leverage other funds. HUD could do much more to foster cooperation among local, state, and federal agencies, including convening sessions among state and local agencies and enforcing the cooperation agreement requirement. HUD also should strongly encourage PHAs to coordinate, facilitate, and leverage, rather than directly provide, supportive services. Supporting service

coordinators would be a better use of very limited ROSS funds. Supportive services are critical, but ideally, PHAs should be the delivery mechanism only when effort aligns with their expertise (e.g., employing residents in PHA-related work) or when no other realistic choice exists. PHAs' efforts to leverage supportive services should be reflected in the public housing management performance evaluation system, as the act intended.

6. *The public housing and voucher programs should continue to play an important supportive role in promoting family self-sufficiency.*

The act's rejection of standardized, national requirements for self-sufficiency efforts, notably the rejection of occupancy conditional on fulfilling self-sufficiency requirements, was appropriate. The positive experience with FSS, however, is a worthwhile example of using public housing or vouchers as a platform to advance self-sufficiency, and PHAs can play a supportive role.⁸¹

Any consideration of mandatory national requirements should be mindful of studies showing that a family with an earner at minimum wage, and in some cases two earners at minimum wage, cannot afford housing in most housing markets in America.⁸² Moreover, many assisted families already are moving from welfare to work. Finally, any further requirements would augment those now incorporated into the welfare system.

A housing subsidy argument for self-sufficiency requirements or time limits on assistance that is less easily answered is the allocation argument, that policies should support turnover so others on the waiting list can access affordable housing and so those who have the opportunity take advantage of it. The MTW time limit experiments might shed light on the effect of such policies and should be examined as they continue to play out. Program experience, however, cannot resolve the issues of basic fairness and balancing hardships that are raised by such proposals. Some additional controlled and limited local experimentation should be allowed.

7. *A range of strategies, including substantial capital improvements for many developments, must be used to lessen concentrated poverty.*

HUD's regulations for lessening concentrated poverty by housing development have been appropriately modified. They now apply only for developments with quite high or low incomes for public housing. The lowest-income developments desperately need to alleviate concentrated poverty, but they need more dramatic measures than directing relatively higher-income applicants to these developments. Congress must recognize the importance of funding capital improvements,

⁸¹ The 2005 appropriations act allows \$10 million in operating subsidy "bonus funding" for PHAs that assist families in becoming less dependent on housing assistance programs, although at this writing (2004), the rules are not set that will determine how such funds may be used.

⁸² National Low-Income Housing Coalition, "Out of Reach 2003: America's Housing Wage Climbs, available at : <http://nlihc.org/oor2003/> (2003).

particularly efforts that can fundamentally change the situations of overly large, concentrated developments.

8. *Proposals to eliminate rent-setting and income-targeting in the voucher program should be rejected.*

Neither of these proposals is supported by compelling evidence on their merits. For income targeting, there is certainly no magic to the current percentage requirement, but also no compelling evidence that it has failed on a broad scale. It was put in place with the recognition that families with extremely low incomes were far more likely to have severe housing needs than others, and no evidence suggests that this situation has changed. Although the admission of somewhat higher-income families to public housing has not materialized thus far, the need remains to serve families with extremely low incomes with vouchers to the extent possible.

IV. PUBLIC HOUSING MANAGEMENT

The act's vision for the transformation of public housing and voucher assistance could occur only with effective PHA management. The act thus contained a series of reforms to improve management of the public housing program (see Table 5 for an overview). PHA management of the voucher program was just as critical, but the act addressed voucher management largely indirectly, through program streamlining and flexibility measures (see section 5 for further discussion of vouchers).

Just as public housing was notorious for its high-rise projects, it was also notorious for its inept, uncaring, and in some cases corrupt management. This situation had continued for decades, particularly in Detroit, Philadelphia, New Orleans, Washington, D.C., and Chicago, despite the promises of HUD or a new local administration to clean things up. Poor management entailed many aspects, including poor maintenance, supervision, and practices; lack of regular inspections or preventive maintenance; flawed capital planning and execution that ignored structural problems and comprehensive planning and delivered inferior products; failure to insist on local police services and to hold tenants responsible for crime or other disruptive behavior; failure to attract and coordinate necessary supportive services; and lack of authority-wide financial controls or development-based financial and management accountability. At the same time, well-managed and smaller PHAs argued successfully that their management was substantially overregulated by HUD, which hampered their ability to address local problems and wasted precious staff time.

Even the system by which management performance was judged, an annual performance grading system called the Public Housing Management Assessment Program (PHMAP), was under fire. Because no independent system was in place to inspect the developments, PHAs could receive a passing management grade even when living conditions were substandard. Much of the system relied on self-certification, raising concerns whether PHAs could effectively grade themselves.⁸³

Several of the act's seven strategies addressed public housing management, but not always in consistent ways. The act provides important deregulation and additional enforcement measures if management is failing, but it also includes several specific new directives on matters Congress thought were important. The act's overall effect was to increase the core length of the U.S. Housing Act, which the act amended, by almost 20 pages, or about 15 percent.

⁸³ These arguments were made in somewhat more detail in chapter 4 of HUD's 2000 Report to the President.

Table 5. Public Housing Management Initiatives

	Year Implemented
Require changes in public housing performance evaluation system, including more emphasis on resident living conditions*	2001 (partial); 2004
Impose capital fund obligation and expenditure deadlines	2001, 2002 (partial), 2003
Provide bonus capital fund payments to high performers	2002 (partial)
Require receiverships for failed PHAs*	Not implemented
Provide fundamental deregulation to support asset and property management (e.g., repeal of one-for-one replacement requirement, repeal of federal admissions preferences)*	(1995) 1998
Capital fund: allows fungibility with operating funds	2000
Capital fund: includes small PHAs in formula for funding distribution (replaces CIAP competitive grant program)	1999
Authorize small PHA consortia	No effective guidance
Repeal mandatory Family Self-Sufficiency program requirements	1999
Allow PHAs to retain income from non-public-housing operations	1999
Adopt new operating fund formula	2002 (interim)
Require PHA plan/resident on the board/resident advisory board	1999
Impose mandates to promote self-sufficiency (rents, community service) and development-by-development poverty deconcentration	1999, 2001, 2003
Require pet policy for family public housing	1999
Promote "one strike" screening and evictions policies*	(1996) 2000
Distribute drug elimination funds by formula	1999; funding eliminated 2001
Allow tenants to petition HUD to replace public housing managers	1999 (no guidance)
Allow home rule alternative regulatory structure	1999 (no guidance)

Note. Year implemented is the year that the initiative could be put into effect locally. Years listed in parentheses are initial implementation dates for provisions adopted prior to passage of the act; they are followed by the implementation date for the corresponding, often more specific, act provision. Some provisions were implemented partially at different times, and thus more than one date is listed.

* *These were expected to be the most basic changes.*

National performance evaluation system. Congress added a requirement to the management assessment system to designate as “troubled” those PHAs that failed to offer acceptable, widespread basic housing conditions. Congress also added to the list specific performance areas that the law required to be assessed, including PHA efforts to promote self-sufficiency, tenant involvement in administration, and security.

Other incentives and penalties to promote management performance. PHAs that failed to obligate capital funds by new statutory deadlines, typically two years from initial availability, would lose funds for each month of noncompliance; those funds would be redistributed to “high performer”

PHAs. High performers also received a bonus amount of capital funds (Congress considered operating funds too fundamental to annual operations to be redistributed in this manner), and streamlined annual planning requirements at HUD's discretion.

Receiverships to address failed management. The act included strong remedial measures for PHAs whose public housing management was designated troubled under HUD's performance evaluation system. The act required them to meet one-half of the requirements for passing status in the first year after their designation and to meet all the requirements after the second year. For PHAs that did not meet these requirements, HUD would petition the federal courts to appoint a receiver, or for small PHAs, either to take this step or assume control directly through an "administrative receivership."⁸⁴ PHAs already deemed troubled at the time the act was passed were subject to these requirements commencing with the date of the act's enactment. These mandatory sanctions reflected Congress' view, which HUD shared, that providing HUD the discretion to enforce sanctions had been a miserable failure.

Fundamental deregulation in support of asset and property management. The most basic provisions included critical capital and tenant selection steps discussed above. Prominent among these were repealing the one-for-one replacement law, streamlining the demolition approval process, creating a consolidated capital fund, eliminating federal tenant selection preferences, and allowing site-based and communitywide waiting lists. Alleviating concentrated poverty was primarily an effort to help public housing families, but it also was intended to make large family developments more manageable.

Management flexibility and related funding improvements. In addition to the flexibility in using capital funds, Congress allowed large PHAs to use up to 20 percent of their capital funds for operating costs and allowed small PHAs to use as much as they deemed necessary for such costs. This flexibility would allow PHAs to cover operating cost shortfalls with capital funds. Congress also allowed small PHAs to receive capital funds by formula rather than competition, both to assure steady funding and to eliminate a time-consuming and often fruitless application process. Small PHAs could form consortia to administer their programs more flexibly and efficiently. As a deregulation measure, Congress dropped the requirement that an award of additional vouchers also would add mandatory slots in the FSS program.

Congress gave PHAs the right to retain income they earned on investments, such as allowing billboards or satellite dishes to be installed on their buildings, which previously had to be returned to HUD. Also included was the mandate for negotiated rulemaking to determine a new operating fund formula, with the hope that a fairer formula could be produced that would better reflect costs and thus meet management needs.

⁸⁴ The term "administrative receivership" is used in the act for the first time. Essentially, it means that HUD assumes the role of the PHA's Board of Commissioners.

Local accountability. This additional management flexibility outlined above was granted in concert with a new system of local accountability, in which PHAs' policies would be included in an annual and five-year PHA plan. The PHA plan was conceived as a means of putting all important PHA public housing and voucher planning proposals into one document that could be easily accessed and reviewed by residents, the local government, any interested citizen, and HUD. The act continued to require other funding applications (e.g., for HOPE VI) and HUD approval processes (e.g., for demolition), however, which meant that the PHA plan could cover these activities but separate PHA paperwork would still be necessary. The annual plan had 18 statutory components, but HUD could streamline requirements for PHAs with less than 250 public housing units or for high performers in the public housing program. The PHA plan replaced a less extensive planning requirement for PHAs with more than 250 units, and was entirely new for smaller PHAs.

Several measures were included to ensure full tenant participation in the PHA plan and other PHA decisions. The act required that housing authorities have a public housing or voucher subsidy recipient on its board of commissioners, and it required a new resident advisory board for each PHA.

Self-sufficiency and other public housing goals less related to management. In addition to the new accountability measures, Congress included several directives to meet the goals of self-sufficiency and poverty deconcentration discussed above, as well as a requirement for "reasonable" policies for public housing tenants in family developments.

Security. The act codified PHAs' right to screen tenants in both the public housing and voucher programs, required standards for evicting from public housing or terminating from the voucher program families with any member who was a drug user or criminal, and required that families evicted from assisted housing for drug and alcohol use not be readmitted within the next three years. It distributed funds for the Public Housing Drug Elimination Program by formula rather than a competitive process. This program provided about \$300 million annually for public housing security or crime prevention efforts. The competitive process had wasted PHA management's time by requiring PHAs to prepare voluminous applications demonstrating that crime in their public housing was a problem.

Alternative management and accountability structures. The act gave tenants the authority to petition HUD, by majority vote, to consider replacing public housing managers at individual developments. The act mandated the National Academy of Public Administration (NAPA) to evaluate alternatives to HUD's management evaluation system (PHMAP). Congress added a new chapter to the U.S. Housing Act to allow HUD to select communities where public housing and voucher management could become the responsibility of the city rather than the PHA (named the home rule provision by its House sponsors). These cities could also, with the exception of a few basic laws, such as income targeting and the Brooke amendment, negotiate the applicability of public housing and voucher laws to the programs. The cities could, but were not required to, use their PHAs to administer public housing and vouchers.

A. HUD Implementation

The implementation by HUD of basic program flexibility to provide better management options in demolition and replacement, use of capital funds, and tenant selection was prompt and effective. Implementation of the specific management provisions, however, was problematic. The heavy-handed manner in which HUD implemented a new performance evaluation system mired it in controversy and delay. HUD did not implement the centerpiece of the act's "get tough" initiatives, mandatory receiverships for those that did not improve within a specified time, nor did it experiment with alternative management mechanisms. HUD did, however, reasonably implement the PHA plan and various other management-related directives and processes.

1. Performance evaluation, enforcement, and incentives.

HUD developed its new performance evaluation system, which it called the Public Housing Assessment System, or PHAS (not to be confused with PHAs), even before the act was enacted. HUD had developed PHAS's predecessor, PHMAP, in the early 1990s with congressional direction. PHMAP superseded a system under which HUD field offices designated PHAs as troubled based on qualitative reviews, and imposed a 100-point report card covering matters such as vacancies, financial soundness, rent collection, inspection and maintenance practices, timely obligation and proper procurement and budgeting of capital funds, and resident participation and supportive service efforts. Although PHMAP was a substantial improvement over the prior qualitative system, the reliance on PHA self-certifications and the system's lack of a grade for resident living conditions were roundly criticized by HUD and Congress. By 1998, about two-thirds of PHAs were determined under PHMAP to be "high performers," and some PHAs with widespread horrendous conditions (e.g., New Orleans and Chicago) were not deemed "troubled."⁸⁵

HUD, anxious for reform, pushed PHAS through the regulatory system. PHAS differed from PHMAP in placing substantially more weight on physical conditions, to be verified by independent inspections of contractors hired by HUD. It also placed more emphasis on financial conditions, with grading based on independent audits. At the same time, it placed much less emphasis on other PHA management indicators and self-certified performance indicators. Finally, it included consumer (public housing resident) satisfaction surveys, albeit to a limited extent.

PHAS was consistent with the act's emphasis on resident living conditions. PHA leaders and their national associations claimed to support the emphasis on independent physical inspections and on financial condition, but they complained loudly that both the required PHAS physical inspection and its evaluation of financial performance included unrealistic, and in some respects, irrational standards. For example, the housing authority associations and many PHA leaders pointed out that PHAS provided excessive penalties for cracks in the sidewalks, and evaluated PHAs' financial performance on nonfederal and other federal programs, not just public housing programs. One PHA

⁸⁵ HUD, Report to the President, p. 25.

group even issued a brochure picturing the White House and questioned whether it would pass a PHAS physical inspection.⁸⁶ The physical inspection and financial aspects of PHAS were designed at substantial expense by a consulting company with little public housing experience, and HUD's aggressive implementation timetable left no room for full public consultation.

Congress held up implementation of PHAS at various points.⁸⁷ The controversy was so intense that until late 2001, HUD could implement only a watered-down version of the prior performance standard. At that point, HUD finally implemented a version of the new system, but with physical inspections covering only unit and building system conditions; the grounds, common areas, and building exteriors were excluded. In addition, the finance indicator operated on a pass/fail measure. HUD published a proposed rule to implement a full system and address some of the prior criticisms in early 2003, but the rule also emphasized newly elevated concerns, such as the accuracy of PHA rent determinations (the new regulation penalized less than perfect accuracy). HUD, however, withdrew the proposed rule in summer 2003, implementing instead the heavily criticized system it had proposed in 2000.

As a regulatory matter, HUD tied the much-vaunted statutory initiative to place failed PHAs in receivership to the authorities' designation as troubled under PHAS. Because the PHAS regulation did not go into effect until late 2001, the time frames after which mandatory receivership would be imposed were not applied earlier. The one-year and two-year deadlines to improve troubled PHAs at the time the act passed effectively were nullified. Although HUD took other aggressive administrative steps both before and after the act's enactment to address troubled PHAs, described below, HUD did not implement the act's receivership provision.

The required termination of new capital funds for PHAs that failed to meet statutory fund obligation deadlines was delayed by Congress until September 2003. The funding that could be directed to high-performing PHAs could be significant because the act requires all of a PHA's newly available capital funds to be redistributed for each month the PHA is not in compliance with obligation deadlines.

Good performance was rewarded with a bonus, built into the capital fund formula (3 percent, eventually increasing to 5 percent). HUD gave some limited PHA plan relief to high performers

⁸⁶ See Public Housing Authority Directors Association, "Would the Nation's Premier Public Housing Property Pass HUD's New Physical Inspection System?" (March 2000). See also "PHADA's Plan to Fix PHAS," *PHADA Advocate Special*, 17 (12) (July 10, 2002).

⁸⁷ For example, the conference report on fiscal 2000 Appropriations Act directed HUD to delay implementing PHAS until, in consultation with PHAs and their representatives, HUD conducted a thorough analysis of advisory PHA assessments, reviewed a GAO study of PHAS when that study was complete, and based on that analysis and review, publish in the *Federal Register* a new consensus-based PHAS final rule. Conference Report to accompany H.R. 2684, Making Appropriations for the Departments of Veterans Affairs and Hopusing and Urban Development, and for Sundry Independent Agencies, Boards, Commissions, Corporations, and Offices for the Fiscal Year Ending September 30, 2000, and for Other Purposes, House Rpt. 106-379, 106th Congress, 1st Session, page 91 (October 13, 1999).

initially, but did not extend it in 2003 when it provided further relief for small PHAs. HUD finally implemented this for high performers in November 2004.

2. Devolution, local accountability, and national directives.

HUD promptly implemented the PHA plan, resident advisory board requirements, and the requirement that a resident be on the board. HUD also promptly implemented the provisions allowing flexible capital funding use and use for operating expenses, and the law allowing PHAs to keep nonrental income.

The required negotiated rulemaking committee settled on interim changes to the operating fund formula, but the committee believed it lacked critical information on the costs of managing public housing. Final changes to the operating subsidy formula were deferred until a congressionally mandated study of the costs of managing public housing could be completed.⁸⁸ As discussed below, the study was completed in 2003 and further negotiated rulemaking took place in mid-2004.

To implement the PHA plan, HUD developed a required template and checklist format and posted approved plans on the internet. HUD considered, but did not invest in, an internet system that would have allowed PHA plan data (e.g., PHAs' local admissions preferences) to be easily compiled nationally or by PHA subgroups. Both initially and with further action in 2000, 2003, and 2004, HUD gave significant relief from the PHA plan requirements to small and high-performing PHAs. The statute gave HUD a means of accepting most aspects of PHA plans without review unless a local challenge arose, but HUD declined this option until 2003.

HUD completed within a reasonable time, but with sparse training, the rent, community service, and development-by-development deconcentration regulations discussed in the prior section, as well as pet policies for family developments (by far the most controversial regulation if judged by more than 7,000 public comments received).⁸⁹ National PHA association leaders and others gave HUD some credit in their public comments for not further complicating these statutory directives, except for the public housing deconcentration rules. HUD completed a regulation to allow small PHAs to operate through consortia, but not the internal processes and external notices needed to allow proposed consortia to mesh with HUD's regulatory and information technology systems.⁹⁰

⁸⁸ The conference report on the VA/HUD/Independent Agencies Appropriations Act, 2000, directed HUD to contract with the Harvard University Graduate School of Design to undertake this study. *Ibid.*, p. 91.

⁸⁹ Although several thousand of these comments were form postcards, many were individually written.

⁹⁰ For example, the final rule made general statements regarding conducting consolidated or individual PHA performance assessments and audits, including reference to national accounting standards to determine the requirement regarding audits in each case. The rule, however, did not publish a notice indicating more specifically how individual groups of housing authorities or programs covered should be treated. HUD also provided no instructions to consortia regarding routine program reporting.

Although crime was a target of the act, its biggest influence was the “One Strike and You’re Out” policy of the Clinton administration.⁹¹ One Strike urged PHAs not to admit or allow continued occupancy of criminals or others who disrupted the community. HUD issued applicant screening and tenant eviction guidance and established grades for such efforts in the performance evaluation system. One Strike had to generate support from the police and court system and combat the common perception of public housing as housing of last resort, where anyone should be allowed to live. HUD promptly implemented the act’s screening and evictions provisions, which supported the One Strike initiative.

The distribution of Drug Elimination Program money by formula, rather than through competitive grants, also was implemented promptly. In its first year in office, however, the Bush administration persuaded Congress to eliminate this program’s funding, based mainly on the argument that the prior administration had used part of the money (albeit a small part) for a gun buy-back program belittled by the National Rifle Association, and had contracted some technical assistance funds to promote alternative medical and psychological treatments.

3. Management restructuring.

For the most part, the alternative management and regulatory concepts contained in the act either had no effect or were untried. Although the NAPA study mandated by the act stated that PHAS should be modified and supplemented, in part by including more consultation with PHAs, the study did not advocate for an alternative system.⁹² Efforts by others to develop an alternative system did not come to fruition. Neither regulations nor other guidance was issued regarding the ability of tenants to petition HUD for alternative management.

The Clinton administration, which generally had opposed home rule provision that allowed local governments to administer public housing and negotiate alternative rules, implemented it, but without guidance. The initial *Federal Register* notice on the act’s implementation simply announced that any city interested in participating in home rule could submit a proposal to HUD.

As HUD was implementing the sweeping PHA management provisions, it was also overhauling its own administrative structure under the “Management 2020” initiative of Secretary Cuomo.⁹³ For public housing and vouchers, this generally meant consolidating “back office” functions of HUD field offices, such as application reviews and financial processing, into national centers. It also created “Troubled Authority Recovery Centers” (TARCs) in Memphis and Cleveland, which dealt specifically with troubled housing authorities. The initiative defined the jobs of field office

⁹¹ HUD, “One Strike and You’re Out Policy in Public Housing” (March 1996).

⁹² HUD, *Evaluating Methods for Monitoring and Improving HUD-Assisted Housing Programs, report by a panel of the National Academy of Public Administration for Congress and U.S. Department of Housing and Urban Development* (December 2000).

⁹³ HUD, “HUD 2020 Management Reform Plan” (1998).

personnel in the Office of Public Housing in various ways, including an effort to separate “public trust” and “community building” functions. Later, the Bush administration reversed some of these changes. HUD also undertook the painful process of updating and overhauling its technology for receiving data, and it required submissions from PHAs and other grantees.

B. Progress

Management improved dramatically in several prominent large housing authorities, independent of the act’s performance evaluation and enforcement measures. Most if not all of the eight housing authorities highlighted as troubled in Secretary Cisneros’ 1996 “Status Report on the Transformation of America’s Public Housing,” and several other prominent PHAs, appear to be substantially better managed, or at least more manageable, today than they were a decade ago.⁹⁴

HUD and local officials, the courts, or other interested citizens in various cities began public housing management reform without waiting for the act. HUD ran the Chicago Housing Authority for several years beginning in the mid-1990s, ran the Housing Authority of New Orleans commencing in 1996, appointed a monitoring committee for Detroit in 1998, and convinced Philadelphia’s mayor and comptroller to sit as chair and vice-chair of that PHA’s board of commissioners. HUD also provided troubled PHAs millions of dollars in technical assistance. The D.C. and Kansas City housing authorities benefited immensely from court-appointed receivers (again, independent of the act’s provisions). New interest by outsiders, such as developers and others drawn in by HOPE VI, increased local political attentiveness to the PHA in some communities.

All told, between 1985 and mid-2004, HUD had initiated 19 takeovers and court-ordered receiverships in addition to other dramatic interventions. None of the large PHAs has been taken over, however, in the past several years.

Although administering large-scale demolition and replacement programs posed great management challenges, the removal of the most difficult developments made management’s task easier. In addition, the PHAs’ involvement in complicated, large-scale HOPE VI and numerous tax credit and other complex transactions demanded more sophisticated and technically versed management that could deal extensively with the development and financial community, and numerous PHAs upgraded management accordingly. The effect of welfare reform and the robust economy through 2000, which spurred more tenants into the workforce, also helped management. As one PHA executive director said, a person who has a job is less likely to cause trouble in the middle of the night.

⁹⁴ See chart 1 in the Report to the President, p. 27, which shows approximately a doubling in these performance evaluation scores for the Atlanta, Chicago, Detroit, New Orleans, Philadelphia, Pittsburgh and Washington, D.C. housing authorities as a group. In Chicago, Mayor Daley insisted that he would take responsibility for the Chicago Housing Authority, directed the city’s chief of staff to negotiate a Moving to Work agreement with HUD that would determine the rules under which CHA would operate, and made CHA’s “Plan for Transformation” a key mission of his administration.

1. Performance evaluation and enforcement.

Evaluation of progress in public housing management was hampered severely by the lack of a credible evaluation system. Under the partial implementation of PHAS, few PHAs were declared troubled, and the newly created TARCs had much less to do than had been anticipated. The progress of large PHAs could be seen less from PHAS and more from HOPE VI and mixed-finance progress, the elimination of the worst developments, remediation of the worst conditions, and increased political support.

PHAS scores on physical conditions improved between 1999 and 2002, although the percentage of units that received passing scores fell slightly in 2003. The system's shortcomings, however, argue against placing too much importance on these data, although there is anecdotal evidence of improvement, especially in safety conditions.⁹⁵

Although the first of the act's mandatory sanctions for failure to improve could have been applied to troubled PHAs at the end of 2002, none were. As noted above, HUD assumed control of a few PHAs. Rather than proceeding under the act, HUD negotiated takeovers based on threats to take action on PHA violations of their longstanding contracts with HUD. By contrast, even the watered-down version of the act's financial penalty for failure to obligate capital funds was effective. The number of PHAs subject to this enforcement declined significantly after the first year.

2. Devolution, local accountability, and national directives.

The act's deregulation initiatives had mixed effects. Some of the additional program flexibility was used extensively, as discussed earlier. The most visible result was the widespread demolition that would not have occurred without repeal of the one-for-one replacement law. The overhaul of many PHAs' tenant selection systems could not have occurred without repeal of the federal preferences.

In addition, small PHAs generally applauded the change to formula capital grants. PHAs welcomed the ability to apply capital funds to operating expenses, and did so to a significant extent. In 2002, large PHAs shifted 6.2 percent, and small PHAs shifted 8.3 percent of capital funds to operating expenses. New York City alone moved \$74 million in 2004 capital funds to cover a shortfall in its operating budget. The act's provision allowing PHAs to keep income unrelated to public housing operations, when combined with interest income from general fund investments, was worth several hundred million dollars by 2001.⁹⁶ PHAs also saw enough impact from interim

⁹⁵ This progress is described in HUD, "Performance and Accountability Report, Fiscal Year 2003" (December 2003). The text also draws on a discussion with Jack Cooper, Executive Director, Massachusetts Union of Public Housing Tenants, spring 2004.

⁹⁶ The fiscal year 2002 fungibility numbers are from "Fifth Annual Report to Congress," p. 12, referencing "Report on Capital Funds Used as Operating Expenses" submitted by HUD to Congress on August 6, 2003. The New York City number is from that agency's PHA plan for 2004. The data on retention of income unrelated to public housing operations are from HUD, "Fourth Annual Report to Congress," p. 8,

changes in operating subsidy rules that HUD, by 2002, claimed these changes played a substantial role in a \$250 million subsidy shortfall (which was pro-rated such that all PHAs paid the cost of the formula adjustments). PHAs had hoped that the congressional mandate to negotiate a new operating fund formula would be followed up by increased funding, but, for the most part, this did not occur.

PHAs did not view the PHA plan, with its 18 required elements, as deregulation. Although the most vociferous complaints dissipated after the first year, PHA officials continued to voice their displeasure when asked by researchers or at various PHA forums, arguing the template and the HUD approval process were a waste of their time. Officials criticized the template for not being a planning document. HUD initially replied that a PHA could make planning decisions using its own process, and the template fulfilled its basic purpose of organizing the PHA's reporting to its community and HUD on these decisions. Many of the initial complaints were related to technology, specifically internet transmission problems, which were later resolved. Others complained of HUD nitpicking in the approval process in some offices.

On the other hand, advocates for groups other than public housing residents, such as persons with disabilities, believed that the PHA plan resulted in constructive attention to their needs.⁹⁷ Advocates for resident groups pushed for more involvement in the process.⁹⁸ A GAO study in 2000 of a relatively small sample of PHAs, and another GAO study in 2003, found that a substantial percentage thought the framework was useful.⁹⁹

The new resident participation provisions were implemented smoothly but met with initial resistance in some cities. Some PHAs were accused of trying to avoid the requirements. In New York City, home to 15 percent of the nation's public housing, the PHA plan and resident process became an extensive and often contentious annual ritual. Some of the smallest PHAs struggled to garner resident interest, and HUD gave them simplified ways of fulfilling the requirements.

PHAs responded enthusiastically to President Clinton's One Strike call (and to scoring of the screening and eviction activities in PHMAP and PHAS). It appeared, from anecdotal reports, that the message was getting to important participants in the process, including police departments and

which indicated that the combination of PHAs' interest income from general fund investments and income from other nonrental sources grew from \$9 to \$29.52 per unit month between federal fiscal year 1998 and 2001.

⁹⁷ Conversation with Ann O'Hara, Associate Director, Technical Assistance Collaborative, Inc., November 2003.

⁹⁸ See, e.g., Public Housing Residents' National Organizing Campaign, "Residents' Guide to the New Public Housing Authority Plans" (Washington: Center for Community Change, 1999).

⁹⁹ U.S. General Accounting Office, "Public Housing: HUD and Public Housing Agency Experiences with Fiscal Year 2000 Plan Requirements," GAO-02-572 (May 2002); U.S. General Accounting Office, "Public Housing: Smaller and Larger Agencies Have Similar Views on Many Recent Public Housing Reforms," GAO-04-19 (October 2003), pp. 12-13.

judges, not to treat public housing as housing of last resort. The Supreme Court in 2001 affirmed HUD and the Oakland Housing Authority's regulatory authority to evict tenants under One Strike provisions.¹⁰⁰ This was followed in 2003 by a favorable Supreme Court decision on First Amendment aspects of Richmond, Virginia, Housing Authority's "no trespass" policy.¹⁰¹

Tenants themselves often were the strongest advocates for the One Strike policy, but tenant spokespersons and others expressed reservations about its use in particular situations. The statutes and court rulings necessarily left the determination whether to proceed with evictions almost entirely to PHAs, and not surprisingly the quality of implementation varied substantially. Although the overall picture was one of enormous success, the policy resulted in difficult actions under which grandmothers who could not control teenaged grandchildren were evicted. Undoubtedly some families left public housing based on an unjustified threat of eviction.

At the same time, PHAs struggled to replace the Drug Elimination funds that had been discontinued. The amount was relatively small, about \$300 million annually, compared with more than \$6 billion annually in operating and capital subsidies and HOPE VI. These funds, however, had been a dedicated source for security efforts, had leveraged other funding for some PHAs, and had been concentrated in about one-third of the PHAs. The Bush administration originally had promised to add a compensating amount to the operating fund, but neither its budget requests nor Congress's appropriations followed through with the funding. PHAs had to rely more completely on local police efforts or other grants, and in many jurisdictions, this meant cutbacks in public housing security efforts.

The new technology, particularly in connection with PHAS, proved very difficult. PHAs complained of having to use 17 different passwords to access HUD's systems.¹⁰² The provision to allow small PHAs to administer programs jointly through consortia was blocked in large part by technology complications (e.g., how HUD's computer systems would route funding). The data on tenant demographics needed to evaluate the MTW demonstration were also compromised by technology delays.¹⁰³

A study by Harvard University's Graduate School of Design (GSD), described further below, found that, overall, regulatory requirements did not add appreciably to the cost of running public

¹⁰⁰ *Rucker v. Davis*, No. 00-1770. Argued February 19, 2002-Decided March 26, 2002* Title 42 U.S.C. §1437d(1)(6) (<http://www.housingall.com/PDF/Rucker.pdf>)

¹⁰¹ *Virginia v. Hicks*, 539 U. S. 113 (2003). No. 02-371, decided June 16, 2003. <http://www.hdli.org/current/>

¹⁰² This complaint was voiced by a number of PHAs, despite HUD outreach, such as conducting technology training sessions at industry conferences. The particular complaint was from roughly 2000. GAO, "Public Housing: Smaller and Larger Agencies" found the same concern and others regarding HUD administration (pp. 18-24).

¹⁰³ HUD could not complete the technology to enable PHAs participating in the Moving to Work program to report on basics such as tenant incomes and rents, and thus does not have such data for a number of these authorities.

housing relative to private, subsidized housing. PHA officials hotly disputed this finding. PHAs of all sizes reported, in an extensive 2003 survey conducted by the GAO, that they had been spending more time on HUD programs since the act had been implemented.¹⁰⁴

3. Management restructuring.

The home rule initiative and other authorized alternative management or regulatory initiatives remained untried. No cities took HUD's invitation to read the statute and submit a home rule proposal.

Although the home rule provisions did not become a vehicle for additional local program flexibility, the 1996 MTW demonstration was used to achieve additional program flexibility for the participating PHAs. The demonstration's nature changed in 2000 when HUD took advantage of vacancies in the 30 program slots to add to the demonstration several larger PHAs, including Chicago, Philadelphia, Atlanta, and Washington, D.C. A clear advantage to demonstration participants was the ability to retain unused voucher funds intended for leasing units and use them for other purposes (this involved millions of dollars for some PHAs). This retention and reallocation of funds would have been impossible absent the funding flexibility permitted under MTW.¹⁰⁵

A substantial number of PHAs used their existing authority to contract for private management of the public housing stock. Atlanta and Puerto Rico, and later St. Louis, contracted out all management, and Chicago, Miami/Dade County, and other PHAs contracted out significant portions of the stock. HUD published a private management guidebook to assist these efforts.¹⁰⁶ PHAs also typically demanded private management in mixed-finance transactions. The results appeared largely positive.¹⁰⁷

Congress had been unhappy with the limited results of the negotiated rulemaking process to produce the new operating subsidy, and had agreed with the negotiators about the lack of underlying data on public housing management costs, which made comprehensive negotiations impossible. Therefore, in 2000, Congress mandated that the GSD study public housing operating costs. The GSD compared public housing properties to Federal Housing Administration (FHA-assisted) properties and their management costs, rather than attempting to assess the costs directly. It found

¹⁰⁴ GAO, "Public Housing: Smaller and Larger Agencies," pp. 12-13.

¹⁰⁵ This advantage was a by-product of the ability of Moving to Work PHAs to use voucher funds and public housing funds interchangeably. P.L. 104-34, cited *supra.*, Section 204 (c)(1). Thus, these PHAs were allowed to keep voucher funds for other uses in situations in which other PHAs' funds were recaptured, or they were not provided the funds initially.

¹⁰⁶ HUD, "Private Management of Public Housing: A Guidebook" (July 1997).

¹⁰⁷ There were, however, serious problems in competitive selection and billing practices in Puerto Rico.

a similar level of resources provided to public housing and FHA properties overall, after adjusting for differences in project characteristics, but great disparities by development and PHA.¹⁰⁸

More fundamentally, GSD concluded that the entire public housing system would be better off if it were converted to property-based management, accounting, and regulation, rather than the current PHA-based system. The study claimed that under the current system, housing authority overhead was about three times higher than in the private sector, and that public housing would benefit more generally if its funding and regulatory structure were more like affordable rental housing efforts. HUD promptly endorsed the property-based concept.

In response to indications that HUD might impose GSD's conclusions in a final operating fund rule, Congress mandated that negotiated rulemaking be undertaken and a final rule be issued by July 1, 2004.¹⁰⁹ The negotiated rulemaking committee accepted GSD's funding allocation system and recommendation to move toward property and asset-based management and funding. The committee also included relief for small PHAs, various phase-in periods, financial rewards for prompt adoption of property-based finance, and provisions for appeals. PHAs would receive funding and report their finances by property, and they could use a development's net positive cash flow for another development. As discussed in the prior section, the committee agreed to freeze the amount of rent used to determine PHA subsidies for four years, so that PHAs could keep any increases in rental income. The new system called for a substantial redistribution of funding among PHAs, but PHAs could stem any losses if they converted to property-based management and accounting by various deadline dates.

C. Issues

1. HUD's performance evaluation system for public housing remains flawed.

Over six years after passage of the act, the long-term fate of PHAS remains unsettled. The physical inspection and financial indicators that created such vehement opposition still remain, for the most part. The 2003 proposed rule also contained significant problems. These included too little weight on some basic management functions, such as occupancy rates (the weight of the grade dropped from 20 percent under PHMAP to 12.5 percent under PHAS), and some unrealistic standards, such as demanding 100 percent accuracy of PHA rent calculations. In addition, PHAS never has addressed, and perhaps never can acceptably address, key long-term issues, including the adequacy of capital planning and quality of capital work. The PHAS self-sufficiency provisions—

¹⁰⁸ Harvard University Graduate School of Design, *Final Report: Public Housing Operating Cost Study* (June 6, 2003). This is the report on the costs of managing public housing that was required by Congress in connection with the Operating Fund rule, as discussed above.

¹⁰⁹ HUD's response to the GSD report is detailed in "Report to Congress: Plan for the Implementation of the Harvard Cost Study Related to the Public Housing Operating Fund as required by H.R. 2 Conference Report, page 1374, due May 15, 2003." The negotiated rulemaking requirement is section 222 of HUD's fiscal year 2004 appropriations act.

evaluating only PHA performance in administering the grants they have managed to obtain—have little importance and reflect HUD’s ineffective resolution of the tension between the congressional mandate to promote self-sufficiency and the lack of dedicated housing resources to do so. Finally, PHAS has no specific relationship to the evolving emphasis on property-based and asset-based management.

HUD, at times, has seemed more interested in policy statements than workability (e.g., that public housing and assisted projects should be treated similarly, or that PHAs should have no rent calculation errors). PHA groups have not emphasized where the PHAS assessment may be too lenient.

2. *The act’s mandatory receivership remedy for troubled PHAs has not been implemented.*

HUD’s aggressive administrative actions, especially in the late 1990s, contributed to the transformation of several very large, formerly troubled PHAs, and HUD continues to pursue various administrative actions. It is likely, however, that there were some situations where mandatory receivership would have been appropriate for troubled PHAs. Its full potential and workability, particularly of numerous federal court receiverships, remain untested.

3. *The act’s mix of deregulation and additional directives has resulted in important additional flexibility, but the mix is sometimes difficult to administer.*

Deregulation has been limited in important respects. PHAs continue to call for substantially more deregulation, and particular aspects of the act can be substantially simplified, such as the rent system, as discussed in the last section.

4. *The local accountability process has not been fully streamlined.*

Although the jury is out on the value of the new local accountability, it seems to be working. It does, however, need further streamlining. HUD’s role will change, and HUD could take steps to change its role further now that it reviews only locally challenged plan elements and capital plans.

5. *The Bush administration has proposed a new demonstration program for public housing deregulation with questionable parameters.*

In its 2005 budget, the Bush administration proposed a three-year “Freedom to House” demonstration, in which up to 100 PHAs would be freed from various requirements, including seating a resident on the board of commissioners, rent-setting requirements, the PHA plan, administrative grievance procedures, designation of elderly-only development; community service requirements, and pet policies. It is unclear why the administration chose these specific candidates for deregulation. The PHAs in the demonstration would be able to use public housing operating and capital funds interchangeably. Unlike MTW, which was touted by the administration as the model for

their demonstration proposal, the funding flexibility would not extend to using voucher funds with public housing funds. PHA participation is not limited by size, and thus the largest PHAs could participate. The demonstration, accordingly, could include a substantial portion of the nation's public housing stock.

6. *The move to a property-based management and financial system could be very beneficial, but will pose regulatory and management challenges.*

The endorsement in the 2004 negotiated rulemaking of a property-based finance and management system has many positive attributes. GSD's findings on administrative overhead and on the advantages of managing and viewing public housing similarly to other multi-family real estate are important arguments for the proposals. Many PHAs clearly could benefit from a better site-by-site understanding of their finances and management decisions, and this could have an important side benefit of bolstering public confidence. Such a change also might make Congress and HUD think more carefully about imposing management mandates because their financial impact would be clearer. PHAs also might begin to view capital investments from a more cost-effectiveness standpoint.

Implementing this fundamental change, however, will be labor-intensive and challenging. The challenge is to produce substantially improved management accountability, not simply additional paperwork, particularly given the inaccuracies of a national formula to predict operating costs at any given property.

D. Recommendations

1. *The public housing assessment system must be settled, improved, and fully implemented.*

The assessment system coming into effect has significant flaws and ultimately should be revisited. In view of the challenges in implementing a property-based finance and management system, and its possible effect on the PHA performance evaluation system, the changes should be limited, in the short run, to some basic corrections. The physical inspection indicator should place more emphasis on livability, the finance evaluation should be limited to the public housing program, and management or financial indicators should place more emphasis on occupancy rates.

2. *The act's mandatory receivership remedy for troubled PHAs should be implemented, and Congress should add further flexibility.*

This treatment of troubled PHAs must be offered a fair test before judging whether the act's requirement is workable and valuable. The law should be enforced. Additional flexibility could be added to allow HUD to choose administrative or judicial receivership for large PHAs that remain troubled (as the act allows for small PHAs), without diluting the requirement of a mandatory

takeover. HUD has shown that it can assume this role effectively for larger PHAs, enough to merit congressional authorization of this flexibility.

3. *Congress and the administration should pursue further program streamlining and simplification.*

The previous section discussed rent system initiatives and self-sufficiency and poverty deconcentration measures. Further program simplification is needed to allow PHAs to focus more attention on property and asset management and less on regulatory compliance.

4. *Any new public housing demonstration should be narrowly focused, and not be substituted for broader, but carefully defined, statutory changes to increase local flexibility.*

The Bush administration's Freedom to House proposal potentially covers too much of the public housing program to be a demonstration program and seems scattershot in what is to be demonstrated. A better approach would be to select a focus for any new demonstration program (e.g., on the efficacy of various self-sufficiency approaches), and to consider whether MTW and existing experience under the act indicate the need for generally applicable statutory changes rather than another demonstration. An example of such a change is the potential rent simplification. A further proposal, based on the MTW experience, might be to allow a PHA to proceed if it demonstrates that it can use a limited amount of voucher funds more effectively for a specific public housing initiative, or for more project-based vouchers than usually allowed.

5. *The conversion to property-based management should proceed, but with substantial regulatory flexibility.*

The conversion to a property-based management, financial, and regulatory system is beyond any of the reforms contemplated by the act. HUD faces a significant challenge in imposing this additional regulation on PHAs already overburdened by regulation; it must both improve management and avoid simply adding another layer of paperwork and bureaucracy. HUD should proceed as flexibly as possible during the coming years, and help PHAs receive needed technical assistance. Continued cross-subsidization of developments must be permitted, if for no other reason than inability to develop a funding formula with sufficient accuracy at the development level. The initiative's effect is limited by the public housing performance assessment and capital funding program structures, and its adoption underscores the need to continue to pursue property-based financing mechanisms. Nevertheless, property-based management and regulation should proceed. Its adoption emphasizes that public housing requires expert property and asset management more than political management, and it brings the perception and management of public housing more into the mainstream.

V. THE SECTION 8 VOUCHER PROGRAM

It might appear that the act, and therefore this paper, disproportionately addresses public housing at the expense of vouchers. The voucher program is now the larger program by a substantial margin. In 2003, it served about 2 million households while the public housing program served about 1.2 million households (see Table 6).¹¹⁰ The act supported the program's expansion by allowing additional actions by HUD and PHAs, and by encouraging the necessary appropriations for additional vouchers both to expand affordable housing and to replace demolished public housing and terminated or expanded contracts for assisted projects. The voucher program's expansion ranks with the demolition and replacement of severely distressed public housing as the most dramatic changes during the past decade.

Table 6. Number of Public Housing Units (millions) and Vouchers, 1995 and 2003

	1995	2003	Percent Change
Public Housing	1.3	1.2	-7.7%
Vouchers	1.5	2.1	40.0%

Source: For public housing, the numbers are based on numbers reported in Meryl Finkel, Donna DeMarco, Hin-Kin Lam, and Karen Rich, Formula Capital Study: Capital Needs of the Public Housing Stock in 1998 (Bethesda, MD: Abt Associates, Inc., March 2000). For vouchers, see among other sources, "The Myth of Spiraling Voucher Costs" (Washington: Center on Budget and Policy Priorities, 2004).

The disproportionate attention the act paid to public housing arises, in part, from the administrative and political complexities that occur when a government agency owns housing, and from the continued attention that site location, configuration, and management demand. In addition, though, the political sentiment remains that public housing families are somehow different and should be subject to additional requirements, and that a subsidy program run directly by a government agency can and should be subjected to more requirements. Table 7 lists the proposed initiatives for the voucher program, which are discussed in more detail below.

Table 7. Section 8 Voucher Initiatives

	Year Implemented
Require consolidation of certificate and voucher programs*	1999
Eliminate unnecessary notices, "take one take all," "endless lease"	(1995) 1998
Permit PHAs to adopt flexible voucher payment standards*	1999
Establish voucher renewal baseline*	1999
Implement performance requirements: prompt inspections, prompt landlord payments	Not implemented
Authorize workable program to use vouchers for monthly homeownership expenses	2000 (partial), 2002
Implement revamped project-based voucher program (overhauled by Congress in 2000)	2001

Note. Year implemented is the year that the initiative could be put into effect locally. Years listed in parentheses are initial implementation dates for provisions adopted prior to passage of the act; they are followed by the

¹¹⁰ These numbers are for public housing units or vouchers available for use.

implementation date for the corresponding, often more specific, act provision. Some provisions were implemented partially at different times, and thus more than one date is listed.

* These were the most basic changes.

Consolidation and streamlining. The act included several initiatives to create a single, market-driven voucher program. Proposals to consolidate the Section 8 program and the voucher program had been considered for a decade before actual consolidation. In reaching a compromise between assuring affordability (as represented by a 30 percent rent ceiling in the certificate program) and providing greater family choices (a specified subsidy amount in the voucher program), the act required that a family initially receiving a subsidy for a specific unit could not spend more than 40 percent of its adjusted income for housing.¹¹¹ In addition, HUD was to monitor the rent burden of voucher holders and was authorized to require a PHA to raise subsidy levels if a significant portion of families paid more than 30 percent of adjusted income for rent.

Additional flexibility. Efforts to make the program more market-driven, and thus to encourage landlord participation, led to the repeal of several requirements, including notice from landlords to HUD of pending evictions; a requirement that if landlords accepted one voucher family, they must accept any qualified voucher family (dubbed “take one, take all”); and a prohibition against term leases (dubbed “endless lease”). These changes had been enacted in annual appropriations laws for several years prior to the act.

The act allowed PHAs more flexibility to set voucher subsidy levels, which broadened the housing choices for families and allowed HUD to serve more families. PHAs could also vary local payment standards, which are the highest rents for which PHAs can pay the difference between the rent and 30 percent of a family’s adjusted income. Thus, increased payment standards allow for increased maximum subsidy payments.

PHAs could set the payment standards between 90 and 110 percent of the HUD-determined “fair market rent” (FMR) benchmark for the area without HUD approval, and at higher or lower levels with HUD approval. The 110 percent ceiling was an increase from the prior ceiling of 100 percent (with some exceptions up to 120 percent with HUD approval), but more moderate than the 120 percent of FMR maximum that the House had proposed. Individual unit rents also remained subject to the “rent reasonableness” requirement, under which a PHA must determine that the unit’s rent does not exceed rents for comparable, unsubsidized units. Congress offered several reasons for the increased payment standard flexibility. These included the need to reduce excessive rent burdens of program participants, promote poverty deconcentration, increase family housing choices, and provide PHAs more flexibility to adapt the program to local market conditions and to correct inaccuracies in the FMR levels set by HUD. Cost implications were not directly addressed.¹¹²

¹¹¹ The 40 percent limitation is Section 8(o)(3) of the U.S. Housing Act. The provision mandating monitoring of rent burdens is Section 8(o)(1)(E) of the U.S. Housing Act.

¹¹² Congress avoided the cost question by making the act’s provisions “subject to appropriations.”

Funding structure. The act included a provision to require negotiated rulemaking in adopting a formula for renewing annual voucher contracts. The renewal provision established a statutory “allocation baseline” of funding, subject to appropriations, which was to be sufficient to provide vouchers to each PHA for the number of families assisted at the time plus any new vouchers the PHA was awarded.

Management. When the act was enacted, HUD already was administering a voucher management assessment program. Although the act contained no explicit authority to establish such an assessment program, specific provisions directed timely payments to landlords and timely unit inspections (which the act required to be considered in HUD’s assessment of a PHA’s performance). The act also allowed HUD to contract out the voucher program’s administration in instances in which HUD determined that a PHA was not performing effectively.

New program initiatives. The act strove to make workable for the first time a voucher homeownership program in which families could use monthly voucher payments to subsidize their mortgage payments and other homeownership expenses rather than paying for rent. In addition, the authorization for “project-based vouchers,” which allow a PHA to commit 20 percent of its vouchers to a specific project, was rewritten in the act and again in the 2001 VA/HUD/Independent Agencies Appropriations Act. The second rewrite allowed PHAs to use project-based vouchers for existing housing, rehabilitation, and new construction; it limited subsidies in family developments to 25 percent of the units in any building except for families receiving supportive services; and it emphasized poverty deconcentration.

Population served. Some of the voucher provisions were included more to meet the act’s overall objectives than those of the voucher program specifically. These included far more stringent income targeting than in public housing, in part to compensate for the envisioned income mixing for that program, and repeal of the federal admissions preferences to provide for more local discretion (but also to simplify administration and increase support for the program), both discussed above.

Incremental vouchers. One of the most heralded provisions of the act, insisted on by HUD Secretary Cuomo, was the addition of 50,000 vouchers for 1999 (the act was part of the VA/HUD Independent Agencies Act for that year), and the authorization of 100,000 additional vouchers for both 2000 and 2001. This was a substantial change from the preceding four years, when no additional incremental vouchers had been funded.

A. HUD Implementation and Congressional Funding Overhaul

Overall, HUD aggressively implemented the act’s voucher reform. Just as critically, Congress overhauled the funding system. Both were fundamental program changes.

HUD’s implementation of voucher reform was timely for the merger of the voucher and certificate programs and other basic provisions. The provisions for voucher funding, however, have been unfolding over the years. First, the negotiated rulemaking committee on voucher renewals

adopted provisions, not mandated by the act, that allowed PHAs to be reimbursed for actual voucher costs, rather than receiving past amounts escalated by inflation and adjusted for any additional vouchers awarded. The provisions gave PHAs full flexibility to raise voucher payments up to 110 percent of the FMR and to be reimbursed for such actions. The provisions also omitted any significant financial incentive for PHAs to set payment standards lower than 110% of FMR and serve more families with the funds saved, because PHAs could not retain any such savings.¹¹³ The reimbursement provisions became known as a unit-based or actual cost system because it funded the actual cost of units leased up to the PHA's allocation baseline.

Under amended regulations in 2000, HUD gave PHAs substantial flexibility to increase subsidies to families in tight housing markets. The change allowed PHAs to set payment standards at 110 percent of FMRs at the 50th, rather than 40th, percentile if families had a difficult time finding units or in metropolitan areas where the housing that families found was unduly concentrated by neighborhood. Congress also appropriated funding for 50,000 additional incremental vouchers in 1999. The number rose to 60,000 in 2000, and 79,000 in 2001. With the change in administrations and a deep federal budget deficit, however, the numbers dropped to 18,000 in 2002 and to zero in 2003, 2004, and 2005. In some of these years, incremental appropriations were conditioned on a PHA fully using the vouchers previously allocated.

Congress also appropriated about 7,000 new vouchers for families with disabilities in each of several years between 1999 and 2002 to make up for the lost housing opportunities in public housing and assisted developments now restricted to "elderly only." New vouchers for disabled families ceased after 2002. Congress continued to appropriate between 30,000 and 40,000 new vouchers annually for other specific purposes, however, largely to replace demolished public housing and to protect tenants in buildings whose owners were not renewing their agreements to keep their developments affordable.

In 2003, Congress overhauled a funding system that had provided upfront appropriations of vouchers to fulfill 100 percent of authorized PHA leasing levels. That system was designed to ensure that PHAs would always have the necessary funds to support vouchers in use. The system had resulted in the annual recapture of about a billion dollars of funds, as PHAs failed to use authorized voucher dollars for varying reasons, including PHA management shortcomings and FMRs that did not keep pace with tightening rental markets.

The new system provided PHAs voucher funds based on the prior year's spending level, and allowed them to draw on a central reserve to fund increased leasing levels. For example, if a PHA was authorized to lease 100 units but was only leasing 95, the old system would have funded 100 vouchers initially and then recaptured funding for five vouchers at the end of the year. Under the

¹¹³ There is no particular legislative history to support an intent that PHAs should consider serving more families by setting a lower payment standard. Under the adopted formula, PHAs might be able to do this during a year, but could not continue it annually because their funding would be reduced to reflect lower per-unit costs.

new system, the PHA would receive funding for 95 vouchers and would draw on a central reserve to fund increased leasing up to its 100 vouchers. These changes did not affect the underlying rules regarding PHAs' ability to set the level of voucher payments.

Congress was careful in 2003 to say that the new system was intended to fund all units PHAs expected to support with vouchers. In 2004, however, Congress did not say this. Congress continued the new funding system with some modifications, including somewhat ambiguous language providing for payment of program cost increases after a cutoff date based on a local inflation factor.

In 2005, Congress tightened the screws dramatically by eliminating both the central reserve and some of the previous flexibility left to HUD to adjust inflation-related payments to a PHA to more closely match a PHA's actual costs. Thus, the PHAs would be funded at their actual costs of leased vouchers plus an inflation factor set by HUD for their immediate region (the Annual Adjustment Factor, or AAF). Congress described these provisions as "strictly a dollar-based or budget-based program" because PHAs were to manage within the budgets provided rather than be paid for leasing up to their allocation baseline (the unit-based approach). The practical effect was to eliminate a PHA's ability to lease units up to its allocation baseline, or to increase leasing at all except to the degree that an increase could be accommodated by per-unit cost reductions or increases less than the AAF. The provision also leaves a PHA short-funded if its per-unit costs increase by more than the AAF.¹¹⁴ Congress provided no funding to restore program reserves for PHAs whose funding runs short, and provided for only a one-week level of reserves.

Congress also turned its attention to the PHAs' administrative fee reserves, which had built up over the years and were used by a number of PHAs to supplement their public housing program funds.¹¹⁵ Congress required some of the reserves to offset ongoing voucher administrative costs, which now totaled more than \$1 billion annually. Congress also limited further the ability to accumulate these reserves. In addition, beginning in 2003, Congress limited the national total of PHA administrative costs to a specific dollar amount, rather than relying on the act's formula for each PHA, which was based on the number of vouchers in use, local rents in a base year, and inflation adjustments. The 2004 HUD appropriations act both included the overall administrative cost funding limitation and explicitly overrode the act's formula for calculating a PHA's amount of these funds.¹¹⁶ The result was significant cuts for many PHAs. The 2005 act continued these provisions.

¹¹⁴ These provisions are contained in the "Tenant-Based Rental Assistance" account of the Public and Indian Housing section of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2005, and described in the corresponding section of the Conference Report on the same act.

¹¹⁵ PHAs could do this under HUD regulations, 24 C.F.R. 982.155(b), and many had substantial funds with which to do this.

¹¹⁶ Both the fiscal year 2003 and 2004 provisions are found at paragraph (5) of the Housing Certificate Fund account in the HUD appropriations act for that year.

HUD issued notice on its implementing the new funding system and administrative fee limitations one week before fiscal year 2003 ended, causing substantial confusion for PHAs. In 2004, HUD improved its timing by releasing its notice halfway through the fiscal year. The notice was far more challenging than the 2003 notice, because HUD stipulated that the provision of funding be based on a standardized inflation factor rather than actual costs. This interpretation of the law substantially under-funded numerous PHAs. HUD, however, allowed PHAs to appeal their funding based on local circumstances. With about a month left in the fiscal year, HUD responded to the individual PHA appeals by releasing an additional \$156 million to various PHAs.

With hopes of avoiding a repeat of this chaotic situation in 2005, Congress stated its expectation that HUD would issue an implementation notice within 30 days of enactment and inform each PHAs of its budget within 45 days of enactment. Congress suggested that PHAs lower eligible rents and expand use to no greater than authorized levels. Congress also directed HUD to allow PHAs to “adjust” (i.e., cut) payment standards promptly, rather than applying such cuts to families after a 13–24-month waiting period as required by current regulations. This would allow PHAs to better manage their budgets. At the same time, Congress required PHAs to protect current elderly and disabled families from the effects of budget management actions.¹¹⁷

Setting fair market rents also became an issue. The Senate Appropriations Committee expressed its concern in September 2004 that HUD’s inability to review and respond to significant issues “regarding the correct payment standard” (presumably, a reference to FMRs) was creating a “crisis of confidence” in HUD’s ability to administer its programs.¹¹⁸ A PHA group pointed out that in 2003, HUD had conducted a historically low number of telephone rent surveys to verify rents.¹¹⁹ Moreover, HUD’s 2004 proposed changes to incorporate the results of the 2000 census as well as new OMB definitions of local markets to which the same FMRs would apply, would have caused dramatic FMR changes in numerous locations. A wide range of housing groups protested that HUD’s schedule for adoption was insufficient to take full account of public comments or local rent surveys, and HUD promptly compromised.

HUD did not implement the act’s provisions requiring timely payments to landlords and timely inspections. The logical means of implementation would be to incorporate them in HUD’s administrative effort (called the Section 8 Management Assessment Program, or SEMAP).

¹¹⁷ These statements are from the Conference Report on HUD’s fiscal year 2005 appropriations act.

¹¹⁸ U.S. Senate Committee on Appropriations, Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations bill, 2005, Report 108-353. 108th Congress, 2d session, p. 69.

¹¹⁹ The PHA report was published by NAHRO in April 2004 (“HUD Can Act Now to Provide Public Housing Agencies with Program Cost Reductions, Flexibility and Streamlining through Regulatory Programs”). The HUD notices regarding FMRs were published in the *Federal Register* on August 6, 2004 (69 FR 48040) and October 1, 2004 (69 FR 59004). HUD was doing a substantial number of telephone rent surveys (called Random Digit Dialing surveys) in the second half of 2004, but some of these surveys reportedly were carried out for geographic areas that did not match the geographic areas HUD finally agreed to use for fiscal year 2005 FMRs.

Developing an effective voucher management assessment system was critical because PHAs plagued with public housing problems too often had treated voucher management as a stepchild to public housing, and the program had suffered accordingly. SEMAP, however, had a difficult start. Although its regulations were published at about the time the act passed in 1998, data systems and other problems prevented full implementation. The first fully effective SEMAP evaluations were for the fiscal year ending June 30, 2003.¹²⁰ As HUD struggled to get SEMAP off the ground, SEMAP was not altered to incorporate the act's provisions.

HUD contracted out the administration of the voucher program or provided concentrated technical assistance in a few instances. Congress provided very substantial funding, a large portion of which has not yet been used, to help HUD address instances of troubled voucher program management.¹²¹

The rule to allow voucher payments to be used for monthly homeownership expenses did not go into effect until late 2000, and was altered further in 2002 to increase local flexibility. HUD issued an implementing notice on the project-based voucher changes in January 2001 but did not publish even a proposed rule until March 2004.

B. Progress (and New Challenges)

By most accounts, the act succeeded in consolidating the certificate and voucher programs into a single, market-driven program. Some landlords say that the program is easier to use now, and that they probably would not have stayed in it if the changes had not been made.¹²² The program grew substantially in size and cost. The cost increases largely resulted from the additional families served, increased FMRs, deeper subsidies to promote increased use of appropriated funds, policies that allowed reasonable family rent burdens, broader housing choices, and a focus on poverty deconcentration.

The dominant issue during the act's first five years was whether the statutory and regulatory changes allowed more complete use of the authorized vouchers. Prior to 2003, the appropriated funds appeared to be underused, given the significant funding available annually for recapture. Even after the act, it took several years before PHAs generally understood that they could use their flexibility to pay higher rents and be reimbursed by HUD. Nevertheless, the number of vouchers under lease increased by 500,000 families between 1997 and 2003, the result of increased FMRs,

¹²⁰ The SEMAP regulations are found at 24 C.F.R. 985.

¹²¹ More specifically, up to \$10 million was provided for this purpose in HUD's fiscal year 2002 appropriations act, up to \$11 million for this purpose and FMR and unit conditions surveys in the 2003 appropriations act, and up to \$13 million for the same purposes in the 2004 act. As of fall 2003, about \$2 million of this funding had been expended. The spending pace increased somewhat in 2004, but as of fall 2004, much of the money had not been used. Congress provided additional funding for fiscal year 2005.

¹²² A spokesperson for Northern Virginia realtors made this statement at a Fairfax County, Virginia, forum on housing issues in spring 2003.

increased payment standards, program streamlining and reduced landlord administrative and regulatory burdens, other PHA management actions to support full use, and the use of additional appropriated vouchers.

Although the overall rate of voucher use greatly increased, it was unclear whether an individual family could more easily use a voucher provided to it (dubbed the “success rate”). When the act was enacted, and as recently as 2001, the congressional committees emphasized their concern regarding inadequate success rates.¹²³ Research indicated that as of 2000, success rates had dropped to a level comparable to that in the mid- to late 1980s.¹²⁴ In other words, PHAs were forced to issue excess vouchers to achieve a particular use rate because more families were unsuccessful and turned their vouchers back. No evidence is available to indicate whether this situation has changed in the past several years as voucher use rates increased.

The Bush administration, and to an extent Congress, has deemphasized success rates in the past few years. Instead, they have focused on PHAs’ ability to use the funds, no matter how many individual families were unsuccessful. PHAs thus were encouraged for several years to over-issue vouchers as needed to achieve full funding use. Congress made clear starting in 2003, however, that PHAs were not to be paid for “overleasing,” that is, leasing vouchers in excess of the allocated baseline unit amounts, regardless of the reason why this occurred. Because overleasing sometimes occurred as a result of unanticipated market changes, this prohibition caused serious problems. For Los Angeles, with approximately 45,000 vouchers, overleasing totaled approximately \$50 million in 2004.

With substantial program expansion and increased flexibility in voucher payment standards came subsidy cost increases. In addition to the cost associated with serving more families, a Congressional Budget Office (CBO) estimate in August 2003 showed a significant increase in the cost per voucher. The conferees for the 2004 HUD appropriations act cited “alarming” cost increases, described as more than double the average increase in the private rental market in each of the last two years, including a 10 percent increase in 2002 and an additional estimated 9 percent increase in 2003.¹²⁵ The conferees indicated that HUD should use cost-control tools, such as “the budget-based practice of renewing expiring ACCs (Annual Contributions Contracts),” and asked HUD for a report on the reasons for the cost increases by July 31, 2004. The act also provided up to \$10 million to fund an additional 75 HUD staff positions for a Division of Quality Assurance for the

¹²³ The Senate Appropriations Committee expressed this concern in its committee reports on the HUD appropriations act for both fiscal years 2001 (Sen. Report 106-410, 106 Cong. 2d Sess., p. 33) and 2002 (Sen. Report 107-33, 107 Cong. 1st Sess., p. 28).

¹²⁴ HUD, *Study on Section 8 Voucher Success Rates, Volume 1: Quantitative Study of Success Rates in Metropolitan Areas* (November 2001).

¹²⁵ Conference Report on H. R. 2673, Division G, Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Act, H. Rpt. 108-401. 108 Cong. 1 Sess., p. 1044 1044.

Section 8 voucher program, to “ensure accurate and timely data regarding the expenditure and projected future funding requirements.”¹²⁶

HUD’s 2004 implementation notice, which under-funded many PHAs, left PHAs scrambling to cover projected deficits. PHAs were forced to consider various dramatic steps, such as canceling all voucher contracts and reoffering them at lower rents or terminating selected voucher contracts, and they were coping with the legal issues involved. PHAs considered whether to take actions to address what might or might not be a short-term budget problem, but that could have negative funding and program repercussions for years. The uncertainty regarding future funding rules complicated these decisions further. The result of PHAs’ confusion and fear of funding shortfalls reportedly was a decrease in the voucher use rate from 97 to 94 percent, or about 60,000 fewer households.

The impact of SEMAP and HUD’s management-related efforts was lessened by the delays in SEMAP’s full implementation and in HUD’s technical assistance. HUD also rarely exercised full enforcement remedies against PHAs that failed SEMAP. Nevertheless, PHA leaders said that SEMAP, and a congressional initiative to condition the award of new vouchers for several years on high use rates, contributed to the increase in voucher use. A HUD study found that the threat, if not the reality, of SEMAP sanctions spurred improvements in PHA’s determinations of reasonable rent.¹²⁷ The study found that voucher rents were, on average, \$95 per month lower than rents for similar unsubsidized units.

New voucher program initiatives authorized by the act or subsequent congressional action also saw progress. The new program to use voucher payments for monthly homeownership expenses was accelerating. By late 2004, approximately 375 PHAs were using it and approximately 2,400 new homeowners had benefited.¹²⁸ Several PHAs also were using their authority to dedicate vouchers to particular projects (project-based vouchers). The law’s requirements that poverty not be concentrated at sites and that no more than one-quarter of the units in a family development building be subsidized without available supportive services (a requirement not yet defined by HUD) constrained voucher use for family housing. The 2004 proposed rule answered some concerns, but included other restrictions that could hamper the program, such as limitations on the initial length of project-based voucher contracts that were inconsistent with low-income housing tax credit requirements.

¹²⁶ Ibid, p. 1103. The quote regarding the budget-based practice of renewing expiring ACCs is from U.S. House of Representatives Committee on Appropriations, Departments of Veterans Affairs and Housing and Urban Development, and Independent Appropriations bill, 2004, H. Rept. 108-235 (108 Cong. 1 Sess.), p. 77.

¹²⁷ The claim that PHAs improved rent reasonableness performance based on SEMAP is included in HUD, “Quality Control for Rental Assistance Subsidies Determinations: Final Report.” Apart from SEMAP, HUD did intervene to assure that the Los Angeles overleasing situation was addressed.

¹²⁸ This information is from HUD’s Public Housing Information (PIC) system, as of December 2004, available at www.hud.gov/offices/pih/programs/hcv/homeownership/publiclist_vhosites.xls.

Even beyond the above funding actions, HUD's implementation decisions were critical. For example, HUD's insistence that the certificate program end promptly with the voucher program merger, rather than allowing local grandfathering, reportedly resulted in loss of assistance for 4,000 families in Los Angeles.¹²⁹ PHA officials claimed that HUD's processing of requests for exceptions to project-based voucher notice varied depending on HUD's view of the general desirability of project-based vouchers.¹³⁰

C. Issues

1. *The enormous expansion in voucher use has been reversed and could deteriorate further under new funding laws.*

In 2005, PHAs will no longer have a funding source to increase their leasing, other than any amounts by which costs are reduced or increased less than AAF. PHAs also are likely to be more conservative about leasing because they cannot be paid if their cost increases exceed the AAF adjustment.

2. *The causes and possible justifications for the voucher program's cost increases need further objective analysis and attention.*

Advocates argued that the per-unit cost increases largely reflected the statutory and regulatory changes that allowed for increased subsidy amounts. Because these subsidy increases have played out, they argue, no further increases are likely.¹³¹ For various reasons, the CBO projected that the growth in voucher spending would slow to 2.9 percent in fiscal year 2005.¹³² Nevertheless, in early 2004, the House Financial Services Committee talked of the "potential hemorrhaging of the Section 8 rental subsidy program that will eventually consume the entire budget of the Department of Housing and Urban Development, unless serious and dramatic reform is

¹²⁹ The Los Angeles information was noted by Steve Renahan, then the director of the voucher program for the Los Angeles Housing Authority, at the NAHRO Housing Committee's July 2003 discussion of the act.

¹³⁰ This was discussed at the July 2003 meeting of the NAHRO Housing Committee.

¹³¹ For the advocate statement, see Barbara Sard and Will Fischer, "Omnibus Bill Appropriates Sufficient Funding to Renew Housing Vouchers: Impact of Some New Provisions Will Depend on Implementation by HUD" (Washington: Center on Budget and Policy Priorities, December 2003).

¹³² Congressional Budget Office, *An Analysis of the President's Budgetary Proposals for Fiscal Year 2005*, available at www.cbo.gov/factsheets/2004b/Housing.pdf (2004).

undertaken.”¹³³ Others saw the situation differently and were concerned that the program would be “a victim of its success.”¹³⁴

The easy aspect of the voucher program to analyze is the cost of serving additional families. To that extent, the program costs are clearly justified and whether to support the additional families is simply a question of appropriations priorities. The more difficult aspect that deserves substantial discussion is the increase in per-unit costs.

In that regard, HUD reported that between December 2000 and December 2003, payment standards rose by an average of 30 percent. It appears that increases in FMR levels accounted for a 19 percent increase. It is unclear how much of this increase was related to HUD’s regulatory FMR increase in 2000. That leaves 11 percent possibly related to increases in payment standards authorized by the act (or about \$71 per month based on the current average FMR level). Program cost increases were further constrained by rent reasonableness and rose less rapidly than payment standards. HUD estimates that with each dollar increase or decrease in payment standards, program costs rise or fall by 62 cents. Using these numbers, 2004’s cost increase attributable to the higher payment standards, and thus possibly to the act, would be about \$1.06 billion.¹³⁵ During this period tenant contributions to rent increased by 11 percent, notwithstanding the act’s income targeting restrictions. Without more study, the role of other factors claimed to contribute to the increase in per-unit costs (e.g., family mobility to jurisdictions with higher rents; “enhanced vouchers” at higher subsidy levels to protect tenants in assisted projects with expiring contracts) cannot be determined. Even should Congress determine to cut back, the causes for the per-unit cost increases should be fully examined.

With payment standards averaging 104 percent of FMRs by December 2003,¹³⁶ it appears that most of the cost impact of these policy changes has occurred. Assuming that FMRs are determined properly by HUD, the question is whether the benefits from increased use, decreased family rent burdens, and less concentrated poverty justify the additional cost of the policy changes, and if not, how to address the matter in a way that is consistent with program goals.

¹³³ U.S. House of Representatives, Committee on Financial Services, “Views and Estimates of the Committee on Financial Services on Matters to be Set Forth on the Concurrent Resolution on the Budget for Fiscal Year 2005,” Committee Print, February 26, 2004 (108th Congress, 2d Session), p. 18.

¹³⁴ Comment by Sunia Zaterman, Executive Director, Council of Large Public Housing Authorities, at Brookings Institution discussion on this paper and public housing and voucher reform more generally, January 23, 2004.

¹³⁵ This total is arrived at by multiplying \$71 x 12 by 0.62 x 2 million. This analysis is based on numbers reported by HUD in “The Flexible Voucher Program: Why a New Approach to Housing Subsidy is Needed: A White Paper” (May 18, 2004), pp. 2-3, 11.

¹³⁶ *Ibid.*, p.2

3. *Based on shifting rationales, the administration has proposed to use block grants to fund the voucher program.*

The president's 2004 budget proposed that the voucher program be funded through block grants to the states. This proposal had no strong supporters. In support of its proposal HUD claimed that administering the program was becoming more complex, it could not deal flexibly enough with the varying housing markets throughout the nation, and the direct supervision of 2,600 PHAs administering voucher programs was inefficient (a position seemingly at odds with endorsement of a property-based public housing management system under which HUD ultimately would monitor individual public housing developments). HUD did not make clear, however, how state administration would lead to more complete use of the resources available, a fundamental goal of the proposal. HUD's rationale was largely based on the significant voucher funding recaptured in recent years, which Congress had addressed through the new funding system. The 2004 HUD appropriations act did not include any aspects of the proposal.

The president's 2005 budget replaced that block grant proposal with a "Flexible Voucher Program" proposal that would continue to be administered by the PHAs but that would go much further to deregulate the program. As discussed previously, it would eliminate income targeting rules among families with incomes below 80 percent of the median, as well as any Brooke amendment limitation on rents. The proposal is dollar-based rather than unit-based, in part to allow less funding over the years. In other words, the baseline amounts of authorized units that PHAs are entitled to lease would be eliminated (rather than simply not funded in an annual appropriations act, as is true for 2005), and instead, PHAs would be given a grant and then the choice to determine how many families to serve and at what level subsidy with the amount available.

HUD issued a White Paper claiming that the voucher cost situation makes reform imperative. The paper also argued that the proposal would save \$1.8 billion in the first year (about one-half resulting from reduced subsidy payments to individual families or admission of relatively higher income families), and that increased program flexibility is needed regardless of the budget pressures.¹³⁷ Several of the paper's itemized cost savings were proposals that could be adopted without a block grant (e.g., lower payment standards, less frequent mandated family income recertifications, and less frequent mandated unit inspections). The proposal was accompanied by an estimated shortfall in the president's proposed budget of \$1.6 billion.

4. *The effectiveness of certain aspects of the voucher program remains a concern.*

HUD's failure to implement the management-related provisions, and more broadly, its slow start on SEMAP and technical assistance are important issues. Given cost concerns, the extent to which PHAs are ensuring rent reasonableness is particularly important. The continued concerns regarding the accuracy of FMRs also are critical to the program's operation.

¹³⁷ *Ibid.*, pp. 13-16.

The ability to use available resources still should be considered a problem for some PHAs, even though under-use no longer results in large-scale funding recaptures. Past proposals, now unlikely to see action, included additional PHA flexibility to set payment standards and to use program funds to help families find units in locations with less concentrated poverty. PHAs with historically low use now have very limited means of improving their situation under the 2005 appropriations act.

The ultimate effectiveness of the project-based voucher program matters greatly because few alternatives exist to provide deeply subsidized, long-term housing commitments. Thus, both HUD's regulatory restrictions and the statute's limit on percentage of subsidized units per building are important issues. The program's use also is being affected by the new instability of the voucher funding situation.

Some commentators expressed concern that the local flexibility (e.g., to set admissions preferences), coupled with multiple housing authority bureaucracies in a market area likely impede family mobility and perhaps reduce the families' ability to move closer to jobs.¹³⁸ Section 3 on self-sufficiency and poverty deconcentration noted that the income targeting requirement had caused a few locations to ask for exceptions and in other locations that actions were insufficient to terminate assistance for disruptive families with vouchers.

D. Recommendations

- 1. A funding system related to actual lease experience should be enacted, with reasonable flexibility and funding to allow PHAs to lease their baseline allotment and to provide more flexibility surrounding overleasing.***

The program is clearly not returning to a pre- 2003 funding system with large annual recaptures. However, the new system should be altered to allow for and eliminate disincentives to full voucher use. The program should not simply give back the gains made in use during the past few years.

¹³⁸ Bruce Katz and Margery Austin Turner. "Who Should Run the Housing Voucher Program? A Reform Proposal" (Washington: Brooking Institution, 2000).

The main disincentive to full use is the possibility that funds will be unavailable to cover all units leased with vouchers. Congress must recognize that such underfunding, even in an occasional year, will result in PHAs reacting very conservatively to a lease-up policy. In addition, the restrictions on overleasing must be made more flexible in the time frames allowed for needed adjustments before funding is cut. This will allow PHAs that are taking reasonable management actions to remain aggressive in their efforts to use available funds. HUD and Congress should collaborate on the best way to accomplish this within appropriations law constraints. This can and should be done while maintaining the concept of an allocation baseline.

2. *The analysis of the per-unit program cost increases, and the possible benefits of those cost increases, do not justify fundamental program restructuring beyond simply cutting back housing assistance.*

The analysis of benefits relative to costs simply has not been developed or articulated sufficiently to make this case. We have not paid sufficient attention to the extent to which the cost increases have resulted from serving more families or higher per-unit subsidy amounts unrelated to changed policies, nor have we otherwise tried sufficiently to attribute the cost increases to specific causes. The degree to which recent cost increases have led to improvements in program use, affordability, and poverty deconcentration goals is unclear, and we cannot be confident in how program restructuring would help achieve these goals.

HUD should carefully lay out and quantify elements of the cost increases, for example, serving more families versus per-unit increases, as well as reasons for and benefits from the per-unit increases. HUD also should clarify the extent to which the increases have accomplished program goals. In other words, what did the changes in policy cost and what did the cost increases buy in terms of program goals?

3. *The basic national voucher program parameters should not be lost in favor of a block grant concept, even if funding must be reduced.*

If the guide is reasonable housing policy and not wholesale budget-cutting, the voucher program's evolution during the past several years has been a great success. Nothing in the program's recent evolution, apart from the budget debate, justifies a full structural overhaul, notably abandonment of income targeting and rent-setting parameters. The act's provisions generally have been successful and should be built on, not abandoned.

Given the size of the voucher program and the federal budget deficit, continuing cost reductions are likely. Alternatives should be carefully weighed in view of their likely effect on program goals and their cost implications. The possibilities for budget-cutting are to decrease per-unit subsidy amounts, forcing families to either pay more rent or choose less desirable housing; change the mix of families to lower the amount of subsidies needed (another means ultimately of decreasing per-unit subsidy amounts); or serve fewer families. If Congress decides that further cutbacks are necessary, the cutbacks should be deliberate and use the current program structure as

a starting point. National parameters on affordability and income targeting serve important housing program goals and should remain. Congress might decide to reduce maximum subsidy levels somewhat; however, any funding cuts will ultimately lead to compromises in the program's ability to meet basic goals of affordability, housing quality, poverty deconcentration, housing choice, and ability of the program to contribute to the supply of affordable housing.

Retaining national program parameters means that to a greater extent, the choice left for budget reduction would be to fund assistance for fewer families. However, even if basic program parameters were eliminated to increase local flexibility, this possibility still would be on the table. Cutbacks would be facilitated because Congress would be passing the tough choices on to PHAs without facing those choices head on. The likely result would be increased PHA flexibility in deciding how to allocate much less subsidy money.

Of course, every reasonable measure within the current program structure should be taken to ensure cost-effective administration. In particular, Congress should take measures to further ensure that PHAs are accurately determining rent reasonableness. For example, Congress could give HUD the ability to use appropriated voucher technical assistance funds for this purpose.

4. *Incremental program improvements must occur.*

HUD must aggressively implement SEMAP, incorporate the management-related provisions of the act, and use the technical assistance funds Congress provides. HUD should carefully review the mechanism for setting FMRs as the changes related to the 2000 census are implemented. HUD must finalize the project-based voucher regulation in a manner that meets program goals but that still allows maximum use of the program given the funding climate. This can be accomplished with various measures, including flexible interpretations of the act's requirement that buildings may have more than 25 percent of their units subsidized only if families are receiving supportive services.

VI. PUTTING IT ALL TOGETHER: OVERALL IMPACT OF THE PUBLIC HOUSING REFORM ACT

The Public Housing Reform Act represents the most comprehensive effort in the history of the public housing and voucher programs to transform the physical, social, and economic landscape of public housing, improve its overall management, improve the voucher program, and ultimately raise the housing and self-sufficiency opportunities of low-income and working families. The vision of the act and the related legislation and funding it incorporated was a bold overhaul of both programs. Six years later, the result has been visible and substantial, but as yet incomplete. The extensive progress made has been compromised, particularly in the voucher program, and continues to be threatened.

. As discussed briefly in the introduction, outcomes are the result of a combination of factors, including the act's provisions and implementation, welfare reform, the economy, and other HUD or PHA actions unrelated to the legislative changes. The "interim grades" in Table 8 offer an assessment of the act's effectiveness and its related legislation, and HUD and PHAs' implementation efforts. The "overall progress" grade is offered where other actions or events have resulted in a considerably different outcome thus far.

Table 8. Success of the Act's Strategies

	Interim Grades related to the act	Overall Progress (if different)
Deregulation to allow asset management	B-	
More flexible use of federal assistance, allowing leveraging of other funds	B+	
Facilitating mixed-income communities and decreasing concentrations of poverty in public housing	B	B+
Increasing accountability and rewarding effective management of public housing agencies	B-	
Creating incentives for self-sufficiency and transitioning out of public and assisted housing	C	B+
Consolidating the Section 8 certificate and voucher programs into a single, market-driven program to help families succeed in obtaining housing and to increase housing choice	A-	B+ , but severely jeopardized
Remedying the problems of troubled PHAs and replacing or revitalizing severely distressed projects	B	B+

Deregulation to allow asset management. INTERIM GRADE: B– The deregulation measure with the greatest effect was repeal of the one-for-one replacement requirement, which allowed PHAs to make the most basic asset management decisions. Repeal of federal admissions

preferences has been used widely, but with less certain results. The flexible capital fund uses, and several other provisions such as site-based waiting lists, have been important at least to some PHAs. On the other hand, the regulatory burden of requirements such as earned income disregards, community service, and implementation of PHAS has been greater than necessary and, in some cases, not clearly justified by the law's impact. In addition, the HUD approvals process was problematic even where new asset management possibilities were involved. Some important asset management options authorized by the act were unavailable to PHAs because regulations were incomplete. Thus, the act's fundamental measures to provide more flexibility were counterbalanced in part by other overly complex provisions, congressional directives unrelated to property or asset management, extensive HUD regulation in some areas, and HUD failure to provide guidance in others.

More flexible use of federal assistance, allowing leveraging of other funds. INTERIM GRADE: B+ The act promoted substantial leveraging of funds in HOPE VI and mixed-finance initiatives, particularly with tax credits. Borrowings against the capital fund accelerated the availability of those funds considerably. PHAs' ability to retain non-public-housing income spurred significant entrepreneurial activity. Most PHAs and local welfare or employment agencies established cooperation agreements as required and supportive service funds were leveraged through various processes, although the amounts leveraged were not compiled. Leveraging opportunities were hindered in several respects, however, by a lack of authorizing regulations, for example, for public housing mortgaging, or by time and effort in HUD processing. The act's provisions generally were on point, but some lengthy HUD processes and regulatory inaction slowed progress by limiting innovative PHA actions.

Facilitating mixed-income communities and alleviating concentrated poverty in public housing. INTERIM GRADE: B; OVERALL PROGRESS: B+ HOPE VI progress in revitalizing severely distressed public housing developments was slow but dramatic. Some of the HOPE VI neighborhoods saw dramatic increases in market activity. Many of the public housing families whose units were demolished did not share the benefits of revitalization, although many improved their situation by using vouchers. In the vast remainder of family public housing that has not been affected by HOPE VI, there are now more working families, but this was not exclusively or even primarily a result of the act. The relatively high overall progress grade of B+ is given in recognition of that change, even though incomes may not be substantially more mixed. For non-HOPE VI developments, the act's authorization of local worker preferences was likely important, but many of these sites need substantial upgrading to achieve a broader income mix. For those relocated both under HOPE VI and more generally, the voucher program was relatively successful in alleviating concentrated poverty, assisted by the streamlining and higher payment standards made possible by the act.

Increasing accountability and effective management in public housing agencies. INTERIM GRADE: B- The PHAS effort caused some PHAs to pay more attention to resident living conditions, and evidence is emerging that conditions have improved. However, PHAS was so compromised in its implementation that the extent of its impact is unclear. Even the act's mandatory

receivership penalties, despite their anticipated importance, were not put in place. The rewards for high performers were just beginning to show results, and the rewards were significant: a 3 percent bonus in capital funds, possible redistribution of some capital funds from PHAs that could not meet fund obligation deadlines, and some deregulation in PHA plan rules. Some of the tangible advantages of acceptable management performance, including avoiding penalties in capital fund allocations, were just beginning to be implemented fully. The PHA plan received mixed reviews. Thus, most of the act's provisions were on the right track or are still unproven, while HUD's implementation fell short in some important respects.

Creating incentives for self-sufficiency and transitioning out of public and assisted housing. INTERIM GRADE: C; OVERALL PROGRESS: B+ The act's encouragements and penalties were small relative to other government self-sufficiency efforts. They were also overly complex in some cases and thus not well understood or implemented. Some provisions applied only to public housing for no compelling policy reason. The provisions reflected Congress' desire to do something helpful, but the lack of a mandate to commit additional funds for this purpose made the intent less meaningful. Since the mid-1990s, many more families have been working (again, the reason for the relatively high overall progress grade), and average, but not median, incomes of families with children have increased somewhat. However, the contribution of the act's relatively modest provisions to support self-sufficiency is unclear.

Consolidating the Section 8 certificate and voucher programs into a single, market-driven program to help families succeed in obtaining housing and to increase housing choice. INTERIM GRADE: A-; OVERALL PROGRESS: B+, but severely jeopardized. The more flexible payment standards in the consolidated program helped increase use. Program use rates rose greatly in response to the act's provisions and other HUD and congressional efforts to boost and reward performance. The program was expanded enormously, but so, too, were costs. The increased per-unit costs resulted from both increased fair market rents unrelated to the act and the additional per-unit subsidies allowed by the act's and by HUD regulatory changes to bolster use and poverty deconcentration. The extent of the act's success in promoting additional poverty deconcentration and avoiding excessive participant rent burdens is unclear. The turmoil caused by the appropriations language in 2004 caused local voucher programs to lose significant ground previously gained, and the 2005 funding at best will confirm this loss.

Remedying the problems of troubled PHAs and replacing or revitalizing severely distressed projects. INTERIM GRADE: B; OVERALL PROGRESS: B+ Management and living conditions in several previously troubled, large PHAs have improved, even though the act's mandatory receivership provisions were not implemented and thus played a limited role. HUD made important strides administratively to address troubled PHAs, and it was assisted by several courts, local governments, and others. Problems in many of the severely distressed developments have been addressed through demolition, HOPE VI, mixed-finance, or mandatory conversion efforts authorized or mandated by the act.

VII. RECOMMENDATIONS FOR THE NEXT SEVERAL YEARS

The next several years will be dominated by funding struggles. If these are not resolved favorably for public housing and vouchers, various points made in this paper will be moot. This paper rests on the assumption that the nation can provide adequate funding to support successful public housing and voucher initiatives, notwithstanding the budget crunch.

Leaving funding aside, even if there are no further statutory changes, the act's implementation will broaden and evolve substantially. This evolution ultimately will allow its purpose to be accomplished more effectively than is currently the case, and the interim grades may be raised if HUD takes several steps suggested by this review.

Generally, HUD should address comprehensively the extent to which important information on the act's effects is unavailable, uncompiled, unanalyzed, or not released. Although this paper has mentioned some specific shortcomings of publicly released data and analysis, this problem exists for many other aspects of the act. Both better and more accessible information and more analytical work are needed on:

- Progress on public housing conditions and vacancy levels;
- The extent of PHA management efficiency;
- The extent of leveraged funds obtained outside of HOPE VI redevelopment efforts, including for supportive services;
- The quality of recent demolition and disposition applications;
- PHAs' use of discretionary authority, such as site-based waiting lists;
- The effect of specific act provisions, such as earned income disregards and local cooperation agreements with welfare and employment agencies;
- Changes in characteristics of landlord participation in the voucher program (e.g., participation by landlords and inclusion of larger buildings).

Gaps also exist in data and analysis regarding some characteristics of both public housing and voucher families and their neighborhoods. In the future, the following data and information should be addressed:

- The impact of HOPE VI and mixed-finance developments on the sites' original residents (to add to substantial work already undertaken);
- "Quality of life" results at non-HOPE VI developments and their neighborhoods, where substantial income mixing or change in the mix of working and nonworking families has been achieved (e.g., impact on crime rates);
- Demographics and self-sufficiency progress of new and long-standing public housing residents, with HOPE VI separated from other developments;
- Trends and reasons for families leaving assisted housing; and
- Success in locating units, poverty deconcentration, and rent burden of voucher holders.

This paper has identified a number of other ways HUD could improve implementation and expedite reform. These include:

- Promptly completing its regulatory or guidance tasks so that the tools provided in the act are fully available and all authorized subsidy and program alternatives can be fully used;
- Staffing or outsourcing the act's initiatives appropriately, including possibly using HUD's non-public-housing staff who are familiar with individual property and asset-based management to supplement HUD's public housing staff;
- Simplifying or streamlining requirements wherever plausible (e.g., with respect to high-performing PHAs), taking into account program risks;
- Advocating for legislation and funding that will better leverage funds, including on a property basis through proposals such as PHRI, to address remaining comprehensive public housing site revitalization and replacement needs; and
- Working to address voucher cost concerns in a manner that is more supportive of established and legitimate program goals.

Finally, even though the act is still being implemented, several areas of concern that require congressional attention. These include:

- Oversight, including hearings on both the overall implementation of the act and implementation of the property-based management initiative;
- Continued funding of HOPE VI, where the grants and leveraged funds can contribute substantially to poverty deconcentration and the turn-around of neighborhoods, and to additional support for those relocated;
- Enactment of a capital leveraging mechanism along the lines of PHRI and possibly other additional capital leveraging tools, particularly in view of continuing funding constraints;
- Program simplification and added flexibility, including replacing complex public housing rent provisions with simpler provisions aimed at achieving similar affordability, and additional measures to eliminate various unproductive provisions or to make the act's initiatives more workable; and
- Continued support for the voucher program's mission and basic parameters.

To paraphrase Mark Twain, reports of public housing's reform may be exaggerated, but substantial progress has been made. The public housing program has been removed from life support, and the expanded and effective voucher program must not be undermined. We must recognize the progress that has been made, complete the job of fully activating the tools available, monitor results, and carefully remedy the program shortcomings. After six years' experience with implementation, this is a good time to begin.

APPENDIX: IMPLEMENTATION OF THE QUALITY HOUSING AND WORK RESPONSIBILITY ACT

This chart, excerpted from Federal Register Vol. 66, No. 67, April 6, 2001, pages 10288-10294, details the QHWRA of 1998, Title V of Public Law 105 276, 112 Stat. 2518. The additions to Federal Register chart are underlined, and sometimes override the earlier statement. Sections of the Act that are discussed in this paper are bolded.

Statutory Section	Implemented by February 18, 1999 Notice of Initial Guidance	Proposed Rule	Interim Rule	Final Rule	Additional Information
Sec. 503(c) Technical Recommendations					Report containing proposals for technical and conforming legislative changes was submitted to the Congress on July 23, 1999. <u>Congress has not addressed these changes.</u>
Sec. 503(d) List of Obsolete Documents					The required <u>Federal Register</u> notice was published on October 1, 1999 (64 FR 53400).
Sec. 505 Declaration of Policy and Public Housing Agency Organization		June 23, 1999 (64 FR 33644).		October 21, 1999 (64 FR 56870).	Rulemaking implemented the statutory requirement that the governing board of each PHA, with certain exceptions, contain at least one member who is directly assisted by the PHA.
Sec. 506 Definitions					Statutory changes were incorporated in HUD rulemakings implementing the Public Housing Reform Act, as appropriate.
Sec. 507 Minimum Rent	Yes.	Part of Admissions and Occupancy, April 30, 1999 (64 FR 23459).		A/O final rule March 29, 2000 (65 FR 16692).	Section 507 was effective upon enactment.
Sec. 508 Determination of Adjusted Income and Median Income		Part of Admissions and Occupancy rulemaking.		A/O final rule March 29, 2000 (65 FR 16692).	Partial implementation was required by August 6, 1999 Notice of Guidance on Public Housing Rent Policies (64 FR 42956).
Sec. 509 Family Self-Sufficiency Program	Yes.	Part of Admissions and Occupancy rulemaking.		A/O final rule March 29, 2000 (65 FR 16692).	<u>This provision repeals the on-going requirement to add a family self-sufficiency slot with each new voucher awarded.</u>
Sec. 510 Prohibition on Use of					Self-implementing; no rulemaking required.

Statutory Section	Implemented by February 18, 1999 Notice of Initial Guidance	Proposed Rule	Interim Rule	Final Rule	Additional Information
Funds					
Sec. 511 Public Housing Agency Plans (includes public housing deconcentration)		<p>April 17, 2000 (65 FR 20686).</p> <p><u>The proposed rule of August 15, 2001 further limits the applicability of the public housing deconcentration rule (66 FR 42926).</u></p> <p><u>The proposed rule, at August 14, 2002 (67 FR 53276), provides for deregulation, generally and for small PHAs.</u></p>	<p>February 18, 1999 (64 FR 8170).</p>	<p>October 21, 1999 (64 FR 56844). Streamlining, August 14, 2000 (65 FR 49484). December 22, 2000, Amended Final Rule (65 FR 81214). February 5, 2001, Change in Applicability Date (66 FR 8897).</p> <p><u>Deconcentration Final Rule: August 6, 2002, (67 FR 50130)</u></p> <p><u>Small PHAs Final Rule: June 24, 2003 (68 FR 37664)</u></p>	<p>Additional guidance provided in PIH Notices 99-33 and 99-51, 2000-43 and 2001-4, including required electronic template for submission of PHA Plans and simplified Small PHA Plan Update.</p> <p><u>PHA Notice 2003-21 explains this Final Rule.</u></p> <p><u>A Federal Register Notice issued November 8, 2004, provided further annual Plan deregulation for high-performing PHAs (69 FR 64826)</u></p>
Sec. 512 Community Service and Family Self- Sufficiency Requirements	<p>Yes, as to changes to welfare-related program requirements (see amended subsection 12(d) of the 1937 Act).</p>	<p>Part of Admissions and Occupancy rulemaking.</p>		<p>A/O Final Rule March 29, 2000 (65 FR 16692).</p>	<p>PIH Notice 2000-11, published on May 9, 2000, provides a model cooperative agreement that PHAs can use with welfare and other agencies to target supportive services and share needed information. <u>Congress suspended the community service requirement for fiscal year</u></p>

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					<u>2002, but reinstated it for fiscal year 2003 and beyond.</u>
Sec. 513 Income Targeting for Public Housing and Tenant-Based Section 8 Assistance	Yes.	Part of Admissions and Occupancy rulemaking.	Part of PHA Plan rulemaking, with regard to deconcentration (see section 511). Part of Section 8 Merger Interim rule with regard to Section 8 vouchers. The interim rule was published on May 14, 1999 (64 FR 26632) (see section 545).	A/O Final Rule March 29, 2000 (65 FR 16692). Part of PHA Plan rulemaking, with regard to deconcentration (see section 511). Final Section 8 Merger rule published on October 21, 1999 (64 FR 56894) (see section 545).	
Sec. 514 Repeal of Federal preferences	Yes.	Part of Admissions and Occupancy rulemaking (for public housing and Section 8 project based assistance).	Part of Section 8 Merger rulemaking (for Section 8 tenant-based vouchers) (See section 545).	A/O Final Rule March 29, 2000 (65 FR 16692). Part of Section 8 Merger rulemaking (See section 545).	
Sec. 515 Joint Ventures and Consortia of PHAs		September 14, 1999 (64 FR 49940).		Nov. 29, 2000 (65 FR 71204).	For guidance prior to implementation of final rule see PIH Notice 2000-43.
Sec. 516 Public Housing Agency Mortgages and Security Interests		In development, in conjunction with capital fund program (non-formula) rulemaking (see section 519).			<u>A rule has never been published on this matter.</u>
Sec. 517 Mental Health Action Plan					Development of action plan and compliance with other statutory requirements is in progress. <u>An Action Plan has never been produced.</u>

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Sec. 518(b) Local Notification					No rulemaking necessary, but additional elaboration may be provided in Capital Fund program (non-formula) rulemaking (see section 519).
Sec. 519 1. Capital Fund formula 2. Capital Fund program (non-formula)		September 14, 1999 (64 FR 49924). In development.		March 16, 2000 (65 FR 14422) and May 2, 2000 Amendment (65 FR 25445).	<u>Withholding of funds from PHAs that did not meet their obligation deadlines (Section 9(j) of the U.S. Housing Act) was overridden for fiscal years 2002 and 2003 by those years' Appropriations Acts.</u> <u>A rule has never been published on this matter.</u>
Sec. 519 Operating Fund	Yes (transition provisions).	Negotiated rule published on July 10, 2000 (65 FR 42488).	March 29, 2001 (66 FR 17276)		Nonrental income provision was implemented for FY 2000 by PIH Notice 2000-4. <u>A rule has been never published to allow pledging of operating fund for debt service.</u> <u>FY 04 HUD Appropriations Act requires negotiated rulemaking and a final rule issued by July 1, 2004 (section 222).</u>
Sec. 519 Other Provisions	Yes.				
Sec. 520 Total Development Cost		January 4, 2001 (65 FR 1008).		December 10, 2002 (67 FR 76096).	Guidance also provided in PIH Notice 99-17. <u>Further guidance and current limits are provided in PIH Notice 2003-8.</u>
Sec. 521 Sanctions for					No rulemaking required; HUD will cross-reference this

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Improper Use of Amounts					sanction authority in its program regulations, as appropriate.
Sec. 522 Repeal of Modernization Fund				Capital fund formula final rule covers some aspects. (See Section 519).	Guidance provided in the March 23, 1999 HUD-CPD memorandum on the "Impacts of the 1999 Appropriations Act on HOME and SHOP," and the March 25, 1999 clarifying memorandum on the same subject.
Sec. 523 Family Choice of Rental Payment	Discussed but not implemented.	Part of Admissions and Occupancy rulemaking.		A/O Final Rule March 29, 2000 (65 FR 16692).	Implementation required by the August 6, 1999 Notice of Guidance on Public Housing Rent Policies.
Sec. 524 Occupancy by Police Officers and Over-Income Families	Yes.	Part of Admissions and Occupancy rulemaking.		A/O Final Rule March 29, 2000 (65 FR 16692).	
Sec. 525 Site-Based Waiting Lists			Part of PHA Plan rulemaking (see section 511).	Part of PHA Plan rulemaking (see section 511).	
Sec. 526 Pet Ownership		June 23, 1999 (64 FR 33640).		July 10, 2000 (65 FR 42518).	
Sec. 529 Contract Provisions					No rulemaking required; to be implemented through amendments to Annual Contributions Contracts (ACCs).
Sec. 530 Housing Quality Requirements	Yes.				No rulemaking required; to be implemented through ACC amendments.
Sec. 531 Demolition and Disposition of Public Housing	Yes. The provision also contained the permanent repeal of the 1-4-1 Replacement Law.	In development.	Part of PHA Plan rulemaking (see section 511).	Part of the PHA Plan rulemaking (see section 511).	Additional guidance provided in PIH Notice 99-19. <u>That Notice was updated by PIH Notice 2003-9</u> <u>A proposed rule was published on December 15, 2004 (69 FR 75188).</u>
Sec. 532 Resident Councils and Resident Management Corporations		October 21, 1999 (64 FR 56890) (provides for the direct funding of		Final rule for October 21, 1999 proposed rule. July 10, 2000 (65 FR	

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		RMCs); more comprehensive proposed rule in development.		42512).	
Sec. 533 Voluntary Conversion of Public Housing to Vouchers		July 23, 1999 (64 FR 40240).		In development. <u>September 17, 2003 (68 FR 54612).</u>	<u>The final rule is not effective, because a proposed rule was published with a cost methodology for comparing public housing to vouchers. September 17, 2003 (68 FR 54624).</u>
Sec. 534 Transfer of Management of Certain Housing					Rulemaking is not required, but may be included as part of resident participation rulemaking (Part 964). <u>A rule has never been proposed on this provision.</u>
Sec. 535 Demolition, Site Revitalization, Replacement Housing, and Tenant-Based Assistance Grants for Projects (HOPE VI)				A rule has never been proposed.	Implemented by the annual notices of fund availability (NOFAs) for the HOPE VI program beginning 1999 with the FY NOFA. <u>A rule has never been proposed on HOPE VI.</u>
Sec. 536 Public Housing Homeownership		September 14, 1999 (64 49932).		In development. <u>March 11, 2003 (68 FR 11714).</u>	
*Sec. 537 Required Conversion of Public Housing to Vouchers		July 23, 1999 (64 FR 40232).		In development. <u>September 17, 2003 (68 FR 54600).</u>	<u>The final rule is not effective, because a proposed rule was published with a cost methodology for comparing public housing to vouchers. September 17, 2003 (68 FR 54624).</u>
Sec. 538 Linking Services to Public Housing Residents (ROSS Program)					Implemented through FY 1999 and FY 2000 NOFAs on the Resident Opportunities and Self-Sufficiency (ROSS) program; and HUD may undertake rulemaking in FY 2001. <u>A rule has never been proposed on this provision.</u>
Sec. 539 Mixed-Finance		In development.			<u>A rule has never been proposed on this provision.</u>

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Public Housing					
Sec. 545 Merger of Certificate and Voucher Programs			<p>May 14, 1999 (64 FR 26632).</p> <p>July 10, 2000, Expansion of Payment Standard Protection (65 FR 42508).</p> <p>October 2, 2000, Increased Fair Market Rents and Higher Payment Standards (65 FR 58890).</p>	<p>October 21, 1999 (64 FR 56894). An amendment to the final rule was published on November 3, 1999 (64 FR 59620).</p> <p>January 19, 2001 (66 FR 6218), Determining Adjusted Income in HUD Programs Serving Persons with Disabilities: Requiring Mandatory Deductions for Certain Expenses; and Disallowance for Earned Income, effective April 20, 2001.</p>	<p>A notice to implement FY 2001 Appropriations Act Project-Based Assistance amendments were published January 16, 2001. (66 FR 3605).</p> <p>Among other provisions, this rule applies the mandatory earned income disregard for rent calculation purposes to persons with disabilities in the voucher program.</p> <p><u>HUD's fiscal year 2001 Appropriations Act rewrote the provision regarding project-based vouchers. A notice implementing the provision was published January 16, 2001 (66 FR 3605). A Proposed Rule was published on this provision on March 18, 2004 (69 FR 12950).</u></p>
Sec. 546 Public Housing Agencies			Part of Section 8 merger rulemaking (see section 545).	Part of Section 8 merger rulemaking (see section 545).	
Sec. 547 Administrative fees	Yes.				Initial guidance has been supplemented by annual notices. (PIH 2000-28). The <u>FY 03, FY 04, and FY05 appropriations acts set further limits on payments.</u>
Sec. 548 Law Enforcement and Security Personnel in Assisted Housing	Yes.	Part of Admissions and Occupancy rulemaking.		A/O Final Rule March 29, 2000 (65 FR 16692).	
Sec. 549 Advance Notice to Tenants of	Yes.		Part of Section 8 merger rulemaking	Part of Section 8 merger rulemaking (see	Additional guidance provided in PIH Notice 98-64.

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Expiration, Termination, or Owner Nonrenewal of Assistance Contracts			(see section 545).	section 545).	
Sec. 550 Technical and Conforming Amendments					No rulemaking necessary or anticipated.
Sec. 551 Funding and Allocation	Yes.				
Sec. 553 Portability			Part of Section 8 merger rulemaking (see section 545).	Part of Section 8 merger rulemaking (see section 545).	
Sec. 554 Leasing to Voucher Holders	Yes.		Part of Section 8 merger rulemaking (see section 545).	Part of Section 8 merger rulemaking (see section 545).	
Sec. 555 Homeownership Option (<u>voucher program</u>)		April 30, 1999 (64 FR 23488). <u>June 13, 2001 (66 FR 32198). This proposed rule provides additional program flexibility.</u>		September 12, 2000 (65 FR 55134). <u>October 8, 2002 (67 FR 64484).</u>	15 demonstration programs were approved under the proposed rule. Rules are now in development to implement provisions of the American Homeownership and Economic Opportunity Act of 2000, which authorize downpayment assistance and a pilot homeownership assistance program for disabled families. <u>This final rule also authorizes use of voucher funds for downpayment assistance, authorized by Section 301 of the American Homeownership and Economic Opportunity Act of 2000, but that initiative cannot become effective without an appropriation.</u> <u>An interim rule for the pilot homeownership assistance</u>

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					<p><u>program for disabled families, authorized by Section 302 of the American Homeownership and Economic Opportunity Act of 2000, was published June 22, 2001 (66 FR 33610).</u></p>
Sec. 556 Renewals				<p>Negotiated final rule published on October 21, 1999 (64 FR 56894).</p>	<p>Consistent with statutory requirement, the October 21, 1999 final rule was preceded by an implementing PIH Notice (98-65). For the convenience of the public, the PIH notice was also published in the <u>Federal Register</u> on February 18, 1999 (64 FR 8188).</p> <p>In addition, related material is contained in Tenant-Based Section 8 Program; Procedures for Determining Baseline Unit Allocations, Accessing, Using, Restoration of and Recapture of Program Reserves and Transfers of Baseline Unit Allocations, April 19, 2000 (65 FR 21088)</p> <p><u>A number of these provisions were overridden by the VA/HUD/Independent Agencies Appropriations Act, fiscal year 2003, and the appropriations acts for fiscal year 2004 and fiscal year 2005.</u></p>
Sec. 557 Manufactured Housing Demonstration Program					<p>Implemented by letter to the participating housing authorities.</p>
Sec. 559 Rulemaking and Implementation			<p>Part of Section 8 merger rulemaking (see section 545).</p>	<p>Part of Section 8 merger rulemaking (see section 545).</p>	
Sec. 561	Yes.				Implementation method was

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Home Rule Flexible Grant Demonstration					reiterated in the Status of Implementation Notice in December 22, 1999 (64 FR 71799) (<u>interested persons could have made a proposal to HUD, based on the statute</u>).
Sec. 563 Performance Evaluation Study					The study is complete. (<u>This is the NAPA study</u>).
Sec. 564 Public Housing Management Assessment Program		June 22, 1999 (64 FR 33348). (PHAS rule) <u>Revisions: February 6, 2003 (68 FR 6262).</u>		January 11, 2000 PHAS Amendments (64 FR 1712). June 6, 2000 Technical Corrections (65 FR 36042). <u>The proposed rule was withdrawn October 21, 2003 (68 FR 60111).</u>	Partial implementation (regarding independent assessment of small troubled PHAs) provided in the April 30, 1999 Initial Implementation Guidance Update Notice (64 FR 23344). Further details were also provided in a <u>Federal Register</u> notice published on October 21, 1999 (64 FR 33348) and subsequent notices. <u>The Notice withdrawing the proposed rule also lists Federal Register notices from June and December 2000 that now define scoring for PHAs.</u> <u>The small PHAs final rule, described under Section 511, Public Housing Agency Plans, provides for small PHAs to receive both PHAS and Section 8 Management Assessment and Program (SEMAP) scores every two years.</u>
Sec. 565 Expansion of Powers for Dealing with Public Housing Agencies in Substantial Default	Yes.	Part of the PHAS rulemaking (see Section 564).		PHAS Final Rule (referenced in preceding Section).	Not implemented until the Final PHAS Rule could be implemented. <u>This includes the provision requiring receiverships for failed PHAs.</u>
Sec. 566 Audits					To be implemented through ACC amendment.
Sec. 567 Advisory Council for					<u>Work was completed and a</u>

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Housing Authority of New Orleans					final report submitted in 2001. <u>HANO remains in administrative receivership controlled by HUD.</u>
Sec. 568 Troubled PHAs and Consolidated Plans					Effective on October 1, 1999. In addition, will be implemented through rulemaking on Consolidated Plans.
Sec. 575 Provisions Applicable Only to Public Housing and Section 8 Assistance	Yes (the provision regarding obtaining information from drug abuse treatment facilities).	The remaining provisions are part of the Screening and Eviction for Drug Abuse and Other Criminal Activity rulemaking (64 FR 40262, July 23, 1999).		May 24, 2001 (66 FR 2877).	<u>These are the "One Strike" provisions in the Act (Sections 575-579).</u>
Sec. 576 Screening of Applicants for Federally Assisted Housing		Part of the Screening and Eviction- Related rulemaking.		<u>May 24, 2001 (66 FR 2877).</u>	
Sec. 577 Termination of Tenancy and Assistance		Part of the Screening and Eviction- Related rulemaking.		<u>May 24, 2001 (66 FR 2877).</u>	
Sec. 578 Ineligibility of Dangerous Sex Offenders for Public Housing		Part of the Screening and Eviction- Related rulemaking.		<u>May 24, 2001 (66 FR 2877).</u>	
Sec. 579 Definitions		Part of the Screening and Eviction- Related rulemaking.		<u>May 24, 2001 (66 FR 2877).</u>	These definitions are applicable to the requirements described in sections 575-578.
Sec. 581 Annual Report					The first and second annual reports have been submitted to the Congress as required. <u>The third, fourth, and fifth annual reports have been submitted.</u>
Sec. 582 Repeals					Effective on October 1, 1999. No rulemaking is necessary or anticipated.
Sec. 583					Effective October 1, 1999.

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Consolidated Plans					Has been implemented through notices.
Sec. 584 Use of American Products	Yes.				
Sec. 585 GAO Study on Housing Assistance Programs					The study required by this section is under way.
Sec. 586 Drug Elimination Program		May 12, 1999 (64 FR 25736).		September 14, 1999 (64 FR 49900).	Proposed rule was preceded by Advance Notice of Proposed Rulemaking published on February 18, 1999 (64 FR 8210). <u>Funding for this program has not been appropriated since fiscal year 2001.</u>
Sec. 587 Report on Drug Elimination Contracts					Report was submitted to Congress as required.
Sec. 589 Notice on Treatment of Occupancy Standards					Required <u>Federal Register</u> notice published on December 18, 1998 (63 FR 70256). No further regulation is necessary.
Sec. 592 Use of Assisted Housing by Aliens				May 12, 1999 (64 FR 25726).	
Sec. 595 Native American Housing Assistance					Implemented by notice. No rulemaking is necessary or anticipated.
Sec. 596 Community Development Block Grant Public Services Cap					No rulemaking is necessary or anticipated.
Sec. 597 Moderate Rehabilitation Terms for Contract Renewals	Yes.				Additional guidance provided in PIH Notice 98-62. No rulemaking is necessary or anticipated.
Sec. 599 Tenant participation		June 17, 1999 (64 FR 32782).		June 7, 2000 (65 FR 36272).	Further rulemaking regarding enhanced vouchers is expected in 2001.
Sec. 599H Miscellaneous					No rulemaking is necessary or anticipated.



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