SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

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May 2, 1988

Law and Legislative Committee
of the City Council
Sacramento, California

Honorable Members in Session:

SUBJECT: Update on Federal Housing and Community Development Legislation

SUMMARY

This report presents a synopsis of the Housing Act of 1987, the fiscal year 1988 Housing and Community Development appropriation, the President's budget of fiscal year 1989 and other pieces of federal legislation that relate to Agency programs and funding. The following official position on federal legislative matters is recommended for your approval.

BACKGROUND

A. Overview

This report focuses on federal legislation which will impact Agency programs and funding this year and next. In general we are seeing a replay of the now typical scenario of gradual attrition whereby the President proposes draconian, i.e., drastic, program cuts in his budget, and Congress restores some, but not all, of what otherwise would be lost through the appropriations process. In each successive round there is at least some cause to celebrate because our worst fears do not materialize.

This short term narrow focus, however, obscures the true magnitude of housing and community development funding problems which local governments face. Consider the following facts:

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1. There has been a very significant reduction of federal support for a broad range of essential local functions, not just housing and community development. The magnitude of this loss is illustrated by Table 1 which depicts reductions in federal spending for a broad range of domestic programs since 1980. Part A, "Urban Programs" is extracted from a synopsis of the federal budget prepared by the U.S. Conference of Mayors. Part B is from the federal budget. Comparing the inflation adjusted 1980 totals with the proposed FY 89 federal budget, there has been a reduction in federal funding of 72% for urban programs, 85% for housing and 79% for both combined. This clearly demonstrates the disastrous effects of incremental reductions across a broad range of programs over time.

2. It will be much more difficult for the federal government to provide additional funding for housing and community development programs in the future than in the past. Since the current administration took office the national debt, not the deficit, has more than doubled from approximately $950 billion 1980 to over $2,000 billion (two trillion) today. Managing the level of debt through various deficit reduction strategies is likely to remain a high national priority for the foreseeable future, regardless of which party occupies the White House. This will make it far more difficult to obtain additional funding for any new program, not just housing and community development.

   A second obstacle to a real increase in future funding is the fact that many multi-year funding commitments for low income housing will be expiring during the nineties. Table 2 lists federal section 8 existing and voucher commitments that will expire each year for the next five years. It was prepared by HUD and included in the FY 1989 federal budget documents. According to the table, federal funding for a total of 763,096 units will expire by FY 1993. Just to replace these units with housing vouchers, which are the least costly in terms of annual budget authority, would cost the federal government an additional $22.4 billion. Beginning in 1991 annual replacement costs, which are insignificant today, will exceed $6.0 billion per year. This pattern will continue through the nineties as long term section 8 and short term voucher commitments continue to expire simultaneously. For example, the 100,000 housing vouchers called for in the administration's 1989 budget would need to be refunded in 1994 together with any expiring section 8 commitments.

3. It will be very difficult for state and local government to develop and fund new programs to meet low income housing and community development needs. In addition to a general resistance to tax and fee increases, constitutional revenue and expenditure limits are a significant constraint on state and local government operations in California. Also the list of problems that demand governmental attention is large and growing. To the list identified by the U.S. Conference of Mayors in Table 1, one could add education, solid waste, and toxics clean up as national program areas that will require increased governmental action in the near future. Some additional problem areas with respect to Sacramento are highways, flood control, and electric power supply. For these and related reasons, providing adequate levels of service to Sacramento's low income population is likely to become an increasingly difficult challenge in the future.

B. Summary of Recent Events

1. The Housing Act of 1987: Passed by Congress in December and signed by the President in January, 1988, this is the first comprehensive housing bill to be enacted since 1980. In the absence of a housing bill Congress has had to reauthorize housing and community development programs annually through appropriations bills such as the mammoth "continuing resolutions" that have gained so much notoriety in the press. The 1987 Housing Act essentially reauthorizes HUD programs for two years, federal fiscal years 1988 and 1989, and establishes desired funding levels. The funding itself is provided through annual appropriations bills. Important changes in areas of interest to the Agency are discussed in later sections of this report.

2. Fiscal Year 1988 Appropriations: In the wake of last fall's stock market crash and faced with the prospect of having to cut both military and domestic programs by a minimum of 8.3% to meet the Grahm-Rudman-Hollings (GRH) deficit reduction target, the President and Congress agreed to a two-year plan to reduce the deficit by a

total of $76 billion; $30.2 billion in fiscal year 1988, and $45.85 billion in 1989. Table 3 is a summary of the two-year spending plan agreed to as a result of the budget summit. The spending category labeled "Domestic Discretionary" includes HUD programs together with many others. As indicated by the table, this category sustained an overall $2.6 billion cut in 1988. The effects of this reduction on Agency programs are discussed below. In general, there has been a 4% reduction in some, but not all areas.

The expenditure reduction target for domestic discretionary programs in 1989 is $3.4 billion, approximately one third larger than 1988. It therefore goes without saying that our programs will once again be very vulnerable to cuts. The situation is worsened by the fact that other items in "Domestic Discretionary" category, such as the war on drugs, education, aids research and NASA have been targeted for increases by the administration. However, unlike the GRH automatic trigger, the budget summit agreement does not mandate across the board cuts to all programs. Rather the flexibility exists to make selective cuts within categories based, presumably, on the relative mertis of particular items. This highlights the importance of communicating the need for continued support of housing and community development programs to Congress.

Table 4 is a comparison of proposed and approved funding levels for key Agency programs for the years 1987, 1988, and 1989. For fiscal year 1988, both authorization and appropriations amounts are shown for comparison; however, the appropriations control actual expenditures. For fiscal year 1989, the authorization levels and the President's budget represent the range of current thinking on these topics. The President's budget figures presumably comply with the budget summit and therefore probably represent the worst case scenario for FY 1989.

Comparing the 1988 appropriation with 1987 totals in Table 4 the following points bear emphasis:

a. Community Development Block Grant (CDBG) funding has been reduced by 4% across the board. However, because of an increase in the number of entitlement jurisdictions, the net reduction in City and County entitlements has been approximately 5% or $400,000. The County entitlement has been reduced from $4.5 million in 1987 to $4.3 million in 1988.

The City's has been reduced from $3.6 million to $3.4 million. The historical downward trend in Sacramento City and County CDBG funding is depicted on Table 5.

b. Funding for the rental rehab and UDAG programs has also been reduced by 4%.

c. The Housing Development Action Grants (HODAG) program received no additional funding although the decision was made to reallocate $25 million in unobligated funds from previous years.

d. Funding for PHA operating subsidies and modernization (CIAP) has increased slightly reflecting inflationary cost increases. Expenditure demands in these areas are governed more by program regulations and operating conditions than annual appropriations. In view of changes in the law and a court decision which requires HUD to reimburse certain PHAs for operating subsidies previously withheld, there is some speculation that the appropriated amounts may not be sufficient to cover all requirements. In this case either Congress would have to approve more funding or PHAs would receive less than they are entitled to under federal regulations as has happened in the past.

e. Funding for new incremental housing units is reduced slightly from $4.8 billion to $4.5 billion. However, as shown on Table 6, the total number of units expected to be produced is approximately the same; 81,905 in 1988 vs. 82,949 in 1987.

Table 6 is a historical comparison of new HUD units authorized since 1981. Assuming these new units are distributed across the country in the same way as in the past, the Agency can expect to receive approximately 100 new units in 1988, mostly housing vouchers. This estimate does not include any units added to the Agency inventory as a result of section 8 "opt outs" since the later do not increase the supply of affordable housing in the community at large.

Comparing the FY 1988 appropriation with the authorizing legislation on Table 4 note that in the case of rental rehabilitation grants and, a few other programs not shown, Congress actually appropriated more money than was authorized by enabling legislation. Also some authorized programs such as HODAG and enterprise zones received no funding. These differences are due to the fact that the housing authorization and appropriation bills were developed separately. In the case of new programs such as enterprise zones, funding was impossible because these programs did not exist at the time the appropriations bill was enacted. It is unclear at this point how these inconsistencies will be resolved. However, because the terms of the budget summit require any supplemental budget increases to be matched by decreases, it is unlikely that a net increase in housing/community development funding will occur as the result of any adjustments.

3. The President's FY 1989 Budget: With an almost total disregard of program authorizations and funding levels established in the Housing Act, the President's FY 1989 Budget once again proposes the elimination of many housing and community development programs and significant cuts in those that remain. This is essentially the same package that has been proposed to and rejected by Congress for the past five years. Major elements with respect to Agency interests are the following:

   a. New funding for the CDBG Program would be reduced to $2.48 billion. This is 14% less than the 1988 appropriation and 17% less than the Housing Act authorization. (See Table 4.) The Administration does propose to augment this amount with a $145 million transfer from the section 312 loan program which would be terminated. Should this occur however, the loss to this Agency would exceed 14% of our CDBG entitlement since we would lose more in "312" funding than we would gain through an increased CDBG entitlement. These two proposals represent a very serious and direct threat to the Agency.

b. The following programs would be terminated and/or would receive zero funding:

- Section 312 Rehabilitation Loans
- Housing Counseling and Congregate Services Programs
- Section 108 Loan Guarantees
- Urban Development Action Grants (UDAG)
- Housing Development Action Grants (HODAG)
- Enterprise Zones

Also three special homeless assistance programs enacted as part of the Stewart B. Mckinney Homeless Assistance Act of 1987; i.e., Emergency Shelter Grants, Supplemental Assistance for Facilities to Assist the Homeless and Section 8 Moderate Rehabilitation for Single Room Occupancy (SRO) units, would receive zero funding. The Administration does propose $75 million for the Supportive Housing Demonstration Program established in the McKinney Act. But on the whole there would be a reduction in homeless funding.

c. The following changes would impact Agency public housing/section 8 operations:

- CIAP funding would be reduced by 41% from $1.7 billion in 1988 to $1.0 billion in 1989. (See Table 4.)

- No new funding for public housing development is proposed.

- A reduction in the section 8 administrative fee from 8.2% to 7.65% of the two bedroom FMR is proposed. This is a particularly troublesome proposal since an increase in the administrative fee was just approved in the 1987 Housing Act. (See the discussion on the 1987 Housing Act below.) This change would eliminate the approximate $170,000 per year revenue gain to the Agency associated wih the recent fee increase.

C. Summary of the Housing and Community Development Act of 1987

The Housing and Community Development Act of 1987 is the first comprehensive housing bill to be enacted in six years. It is a two year authorization bill. The normal interval for housing bills is typically three years. The traditional role of authorization bills is to establish the rules for various programs and provide multi-year target funding levels. Funding itself is provided through annual appropriations bills. However, due to the federal budget crunch, the tie between authorization amounts and appropriations has become less significant. For example, as shown on Table 4 there is virtually no relationship between FY 1989 authorization amounts and the President's budget. The chief significance of the Housing Act is that it provides continued authorization for programs critical to the Agency and makes rule changes which are on the whole favorable to our interests. The most important changes are summarized below.

1. The Section 8 administrative fee has been increased to 8.2% of the fair market rent for a two bedroom unit, and the same fee structure is applied to both certificates and vouchers. This change will result in an increase in revenue to the Agency of approximately $170,000 per year.

2. Rules for the public housing performance funding system have been modified to allow, among other things, the adjustment of base year formula funding amounts. This is an important item for the Housing Authorities of the City and County of Sacramento. The Agency will be vigorously seeking an increase in its public housing subsidy rate as a result of this change.

3. Rules for the Public Housing Comprehensive Improvement Assistance Program (CIAP) have been liberalized to allow more local program flexibility. This should make it easier to administer CIAP provided adequate funding is available.

4. Rule changes with respect to the CDBG Program are not expected to adversely effect Sacramento's program. Some changes that would have been detrimental, such as altering the allocation formula, were rejected. Others, such as tighter targeting to low income families and expanded citizen participation requirements are not considered detrimental since our program already complies with these higher standards.

5. UDAG project selection criteria have been changed to place greater emphasis on project merit, rather than poverty indicators in the applicant's jurisdiction. This should make it easier for projects in cities such as Sacramento to obtain funding.

6. Permitted uses for Section 108 loans have been expanded to include rehabilitation and economic development.

7. Two new programs of potential interest to the Agency have been authorized; Nehemiah Housing Opportunity Grants and Enterprise Zones. The first is essentially a home ownership opportunity program intended to dovetail with local programs to recycle abandoned properties. With respect to the second, designation of up to 100 Enterprise Zones has been authorized although the exact benefits to be associated with such a designation have yet to be determined. Staff will be following development of regulations in these areas.

A more comprehensive analysis of the 1987 Housing Act prepared by the National Association of Counties is included as Attachment A to this report.

D. Federal Tax Matters

The Federal Tax Reform Act of 1986 dealt a severe blow to redevelopment and low income housing through rule changes affecting tax exempt bonds and the elimination of real estate tax shelters. These changes have gone too far in stifling much needed new development. Since passage of the tax act, housing advocates and others in the real estate industry have been attempting to minimize some of the worst impacts of the new law through amendments. These efforts have been unsuccessful for a variety of reasons, among them the loss of federal tax revenue associated with many proposed changes, the diversity of groups seeking change, and a desire by Congress not to tamper with the tax law so soon after making such a major change.

The following is a summary of proposed tax law changes which would directly benefit the Agency:

1. Repeal of the 1988 sunset for Mortgage Revenue Bonds (MRBs). Such bonds provide capital for low interest home purchase loans and have been extensively used in

Sacramento. For example, since 1980 MRBs have been used to assist 1,330 first time home buyers. MRB authority is also the basis for Mortgage Credit Certificates (MCCs). See below.

2. Restore the authority to issue Mortgage Credit Certificates (MCCs). Rather than provide low interest mortgage funding to lenders, as do MRBs, MCCs reduce housing costs by providing federal income tax credits directly to lower income home purchasers. Sacramento is one of the first jurisdictions in the state, if not the nation, to use MCCs. They have become increasingly popular. To date more than 1800 have been issued or are in the final stages of processing. The authority to issue new MCCs was allowed to lapse in 1988. Restoration of this authority is an important legislative priority.

3. Reclassify mortgage revenue bonds and tax increment bonds as tax exempt public purpose bonds. This would remove them from current volume caps and exempt them from the alternative minimum tax, thereby making them more attractive to investors.

4. Strengthen the new tax credit for low income rental housing to make it more useful as a development incentive. This credit was intended to be a substitute for tax shelters eliminated by the 1987 Tax Act. Major changes being sought are the following:

   a. Eliminate the 1989 sunset date.
   b. Remove income limits for investors to be able to claim tax credits.
   c. Eliminate the cap on the amount of tax credit that can be claimed by individual investors.
   d. Express credits as a fixed percentage of eligible costs rather than a variable percentage determined by the Treasury Department.
   e. Allow credit awards made in a given year to be extended for good cause or reissued to other projects.

FINANCIAL DATA

Adoption of the resolution accompanying this report will have no direct financial impact on the Agency.

ENVIRONMENTAL REVIEW

The action recommended by this staff report does not require environmental review.

POLICY IMPLICATIONS

A resolution stating formal positions on the various topics discussed in this report is attached for your approval. A summary of the specific policy points covered appears below:

A. Housing and Community Development Appropriations

1. The federal government should provide continued funding for housing and community development programs at levels authorized in the 1987 Housing Act or higher. None of the programs authorized in the 1987 Housing Act should be terminated or receive zero funding.

2. The following programs should have the highest priority for continued funding: CDBG, Public Housing Operating Subsidies and Modernization (CIAP), and other programs which directly aid local housing and community development efforts such as section 312 rehabilitation loans and rental rehabilitation grants.

B. Federal Tax Matters

1. The authority to issue Mortgage Revenue Bonds and Mortgage Credit Certificates (MCCs) should be continued.

2. Mortgage Revenue Bonds and tax increment redevelopment bonds should be classified as tax exempt public purpose bonds, thereby exempting them from volume caps and the alternative minimum tax.

3. The tax credit for low income rental housing should be strengthened to make it more useful as a development incentive.

While they differ in details, the above positions reflect the same general policy on federal housing and community development legislation embodied in earlier resolutions on this subject. Therefore, this report is considered to be declaratory of existing policy.

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

VOTE AND RECOMMENDATION OF COMMISSION

At is regular meeting of May 2, 1988 the Sacramento Housing and Redevelopment Commission adopted a motion recommending approval of the attached resolutions. The votes were as follows:

AYES: Amundson, Simon, Simpson, Wiggins, Wooley, Yew, Moose

NOES: None

ABSENT: Pettit, Sheldon

RECOMMENDATION

The staff recommends approval of the policy positions outlined above.

Respectfully submitted,

WILLIAM H. EDGAR
Executive Director

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TABLE 1

FUNDING REDUCTIONS IN
KEY URBAN PROGRAMS
FY 1980-1989
(Billions $)

PROGRAM	FY80	FY80 (Adjusted)	FY89 (Proposed)	REAL % OF CUT
A. URBAN PROGRAMS				
CDBG	$ 3.8	$ 5.1	$ 2.6	49
UDAG	.7	.9	0	100
GRS	6.9	9.2	0	100
MASS TRANSIT	3.2	4.3	$ .1	97
EMPLOYMENT AND TRAINING	6.5	8.7	5.5	37
EDA	.5	.7	.04	94
LAW ENFORCEMENT ASSISTANCE	.4	.6	0	100
CLEAN WATER CONSTRUCTION	4.3	5.8	1.5	74
SUBTOTAL	$21.8	$35.2	$ 9.8	72%
B. NET NEW BUDGET AUTHORITY FOR LOW INCOME HOUSING	$26.7	$43.1	$ 6.4	85%
C. TOTAL REDUCTION (A & B ABOVE)	$48.5	$78.3	$16.2	79%

Source: 1. Summary of the FY 1989 Federal Budget; U.S. Conference of Mayors. (Part A). 2. NAHRO Legislative Newsletter dated January 22, 1988.

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TABLE 2

PROJECTED EXPIRATIONS OF SECTION 8
EXISTING AND VOUCHER UNITS[1]

FISCAL YEAR	SECTION 8 EXISTING	VOUCHERS	TOTAL UNITS	COST[2] ($ X 1000)
1989	1,437	...	1,437	$ 38.7
1990	1,557	11,063	12,640	352.4
1991	256,133	39,773	295,906	8,514.7
1992	180,726	73,262	253,988	7,488.8
1993	150,095	49,000	199,095	6,005.7
	589,948	173,098	763,046	$22,400.3

Source: The FY 1990 HUD Budget.

NOTES:

1. This table does not include the more than one million units contained in Section 8 new construction, rehabilitation and other development projects where the subsidy is attached directly to units rather than their occupants. Long term subsidy contracts for these units will begin to expire around the end of this century. Right now we are experiencing losses to this inventory through owner cancellations or opt outs.

2. The amount of federal budget authority required to replace total units lost with vouchers. This is essentially the amount necessary to continue rent subsidies for a period of five years.

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TABLE 3

COMPONENTS OF SUMMIT AGREEMENT
($ billions)

	1988	1989
REVENUES:	----	----
Hard taxes	9.00	14.00
IRS compliance (net)	1.60	2.90
User fees	0.40	0.40
	-----	-----
SUBTOTAL, REVENUES	11.00	17.30
SPENDING:		
Discretionary:		
Defense (Function 050)	5.00	8.20
Domestic discretionary	2.60	3.40
1989 effect of 1988 2% pay	0.00	2.40
	-----	-----
Subtotal, discretionary	7.60	14.00
Entitlements:		
Medicare	2.00	3.50
Farm price supports	0.90	1.60
GSL balances	0.25	0.00
Federal personnel	0.85	0.85
	-----	-----
Subtotal, entitlements	4.00	5.95
SUBTOTAL, SPENDING	11.60	19.95
ADDITIONAL SAVINGS:		
PBGC premiums	0.40	0.40
VA origination fee extension	0.20	0.20
VA loan guarantee	0.80	1.00
Debt service	1.20	3.50
	-----	-----
SUBTOTAL, ADDITIONAL SAVINGS	2.60	5.10
DEFICIT REDUCTION UNDER GRH SCORING	25.20	42.35
Asset sales	5.00	3.50
GRAND TOTAL DEFICIT REDUCTION	30.20	45.85
	=====	=====

Source: National Association of Counties Newsletter; January 1988.

TABLE 4

HUD BUDGET AUTHORITY AND APPROPRIATIONS
1987 THROUGH 1989
(Amount in Millions of Dollars)

ITEM	1987 ACTUAL	1988 APPROP.	1988 AUTH.	1989 AUTH.	1989 BUDGET
COMMUNITY DEVELOPMENT					
CDBG	3,000	2,880	3,000	3,000	2,480[1]
RENTAL REHABILITATION	209	200	125	125	150
UDAG	225	216	225	225	0
HODAG	81	[25][2]	75	75	0
ENTERPRISE ZONES	0	0	1	1	0
ASSISTED HOUSING					
PHA OPERATING SUBSIDIES	1,350	1,450	1,500	1,530	1,517
MODERNIZATION (CIAP)	1,437	1,704	1,700	1,732	1,000
NEW UNITS TOTAL $$[3]	4,802	4,515	5,123	5,218	4,000

Sources: 1. The 1989 Federal Budget. 2. The Housing Act of 1987. 3. The 1988 Housing Appropriation.

NOTES:

1. The Administration proposes elimination of the section 312 rehabilitation and transfer of $145 million in 312 account balances to CDBG making a total of $2,625 million ($2.6 billion) available for allocation in 1989.

2. Represents estimated roll over of prior year recaptures. No new funding appropriated in 1988.

3. A breakdown of units included in these totals appears in Table 6.

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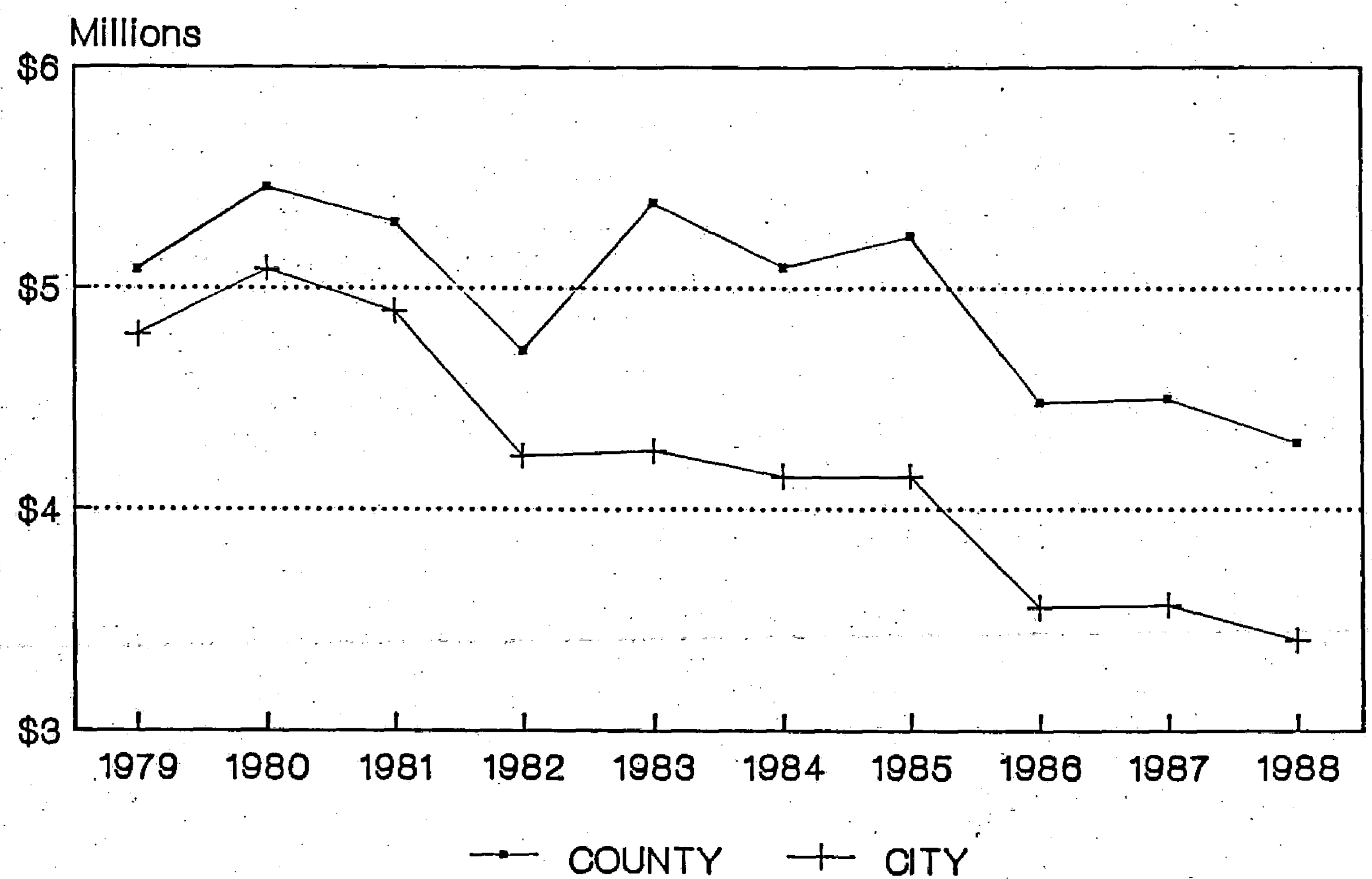
TABLE 5

SACRAMENTO CITY/COUNTY
CDBG ENTITLEMENT PROFILE



REVISED 2/88

SOURCE: Sacramento Housing and Redevelopment Agency CDBG Staff

TOTAL HUD-ASSISTED HOUSING - NEW INCREMENTAL UNITS: FY 1981 - FY 1989

Program	FY 1981	FY 1983	FY 1985	FY 1987 (Proposed)	FY 1988 (Appropriation)	FY 1989 Budget
Public Housing (Regular)	33,242	--	5,448	2,500	5,000	--
Public Housing (Indian)	3,128	2,500	2,178	2,000	2,000	1,000
Section 202 Elderly/ Handicapped (Section 8 Support)	15,166	14,308	12,639	12,000	10,990	7,000
Section 8 (New Construction)	42,942	--	--	--	--	
Section 8 (Existing)	90,354	36,147	36,513	10,000	10,000	
Section 8 (Mod Rehab)	19,916	14,917	4,902	7,500	5,000	
Housing Vouchers	--	--	38,364	48,949	48,915	100,000
TOTAL UNITS	204,748	67,872	100,044	82,949	81,905	108,000

Source: HUD Budget Summaries, FY 1981 - FY 1990

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The Housing and Community Development Act of 1987

An Analysis

prepared by

The National Association of Counties

PUBLIC HOUSING PROVISIONS

Rent phase-in. Permits PHAs to phase-in over a 3 year period public housing rent increases resulting from increases in tenants' income.

Income eligibility. Requires HUD to issue regulations permitting admission of low-income families as well as very low-income families into assisted housing.

Near elderly. Where there is an insufficient number of elderly for housing designed for the elderly, preference next should be given to the near-elderly between 50 - 61 years.

Grants for development. HUD to give grants or annual contributions under 40 year contracts to PHAs for public housing development.

Conditions for public housing development.

1. Development was underway prior to October 1, 1987;

2. 85% of the public housing units are up to standard or will be upon completion of modernization for which funding has been awarded;

3. PHA certifies that the development (a) will replace disposed or demolished units or (b) is required by court order;

4. PHA certifies that the demand for housing cannot be satisfied by section 8 and that it plans to construct or acquire projects of not more than 100 units that address that demand; or

5. HUD may reserve up to 20% of development funds for the substantial redesign, reconstruction, or redevelopment of existing public housing.

Recapture of development funds. Prohibits HUD from recapturing funds for public housing development for 30 months following reservation. During that period a PHA may change the site or reformulate the project, provided the same number of units or more are to be constructed, rehabilitated or acquired.

New construction vs. acquisition. In demonstrating that new construction is less costly than acquisition alternatives, HUD must consider neighborhood in which PHA determines housing is needed.

awarded to nonprofit organizations for public housing child care.

Operating subsidies. Under a performance funding system HUD and PHA, during the first year, shall share equally any savings attributable to actions taken by PHA to reduce utility costs. Where PHA receives funds from non-HUD source or contracts for services, PHA shall receive 100% of cost avoidance. The statute outlines a procedure for adjusting subsidies in subsequent years.

Comprehensive Improvement Assistance Program (CIAP). Grants will be awarded under contracts with 20-year terms. PHA must submit a 5-year comprehensive plan and annual statements of projected activities and expenditures. If those projections are consistent with its comprehensive plan, the PHA has total discretion in expanding assistance for any activity or work in the plan. The comprehensive plan may be amended in any annual statement. The PHA must submit a performance and evaluation report.

CIAP special purpose needs. Available to replace or repair major equipment systems or structural elements, upgrade security, increase accessibility for elderly and handicapped families, reduce number of vacant substandard units, and increase energy efficiency. The physical improvements must be necessary and sufficient to extend substantially the useful life of the project.

Demolition/disposition. Requires 1 for 1 replacement through (a) acquisition or development of additional public housing, (b) 15-year project-based assistance (under federal or comparable state or local government program), (c) 15-year tenant-based assistance under section 8 (excluding vouchers), upon a finding that project-based assistance is not feasible, and the supply of private rental housing is sufficient to meet the demand of certificate and voucher holders, or (d) combination of the above.

Resident management. Resident council must approve the establishment of a resident management corporation, and hire a management specialist. Project may receive CIAP and operating subsidies. HUD may waive its regulations, and may permit residents to volunteer their labor, subject to collective bargaining agreements. Corporation may use excess income for maintenance, establishment of business enterprises, or to acquire additional low-income units.

Homeownership and management opportunities. Resident management corporation must demonstrate management ability over 3 years. Units only can be sold to families residing in or eligible to reside in public housing. Where alternative financing is unavailable, PHA may make loans on the security of the property at interest rates no lower than 70% market rate. The project remains eligible for CIAP, but operating subsidies will not be available for buildings after sale. Property may be resold only to the resident management corporation, lower income families residing in or eligible to reside in public housing or eligible to receive section 8, or the PHA. On resale, seller can only receive paid-in equity and the appreciated value as determined by an inflation allowance. PHA must replace sold units within 30 months and must use proceeds from sale to purchase public housing units. Statute provides protections for nonpurchasing tenants.

SECTION 8 ASSISTANCE AND OTHER PROGRAMS

Vouchers and Certificates. The statute requires annual adjustments in fair market rents. Vouchers also must be adjusted annually, and HUD must set aside 5% of it budget authority as an adjustment pool. The administrative fee for section 8 certificates and vouchers is 8.2% of FMR for a 2-bedroom rental. HUD can increase the fee to reflect higher costs of administering small programs and programs operating over large geographic areas, and to grant reasonable fees for extraordinary costs. Section 8 certificates and vouchers are portable within the same or a contiguous MSA. The PHA having responsibility for the jurisdiction to which a family moves shall be responsible for the administration. The statute prohibits denial of section 8 certificates and vouchers to public housing residents. It also prohibits owners of multifamily projects who have entered into section 8 contracts from refusing to rent units to certificate and voucher holders. The 1987 housing act permits a PHA to approve project-based assistance for 15% of its section 8 assistance.

Rental rehabilitation. Section 8 certificates and vouchers are made available to residents of rental rehabilitation project who are required to move because of rehabilitation activities or overcrowding, and to families who would have to pay more than 30% of their income for rent after rehabilitation whether they choose to remain in, or to move from, the project. Properties eligible for rental rehabilitation include those that will be privately owned after rehabilitation. Maximum grants are raised: $5000 per unit with no bedrooms, $6500 per unit for 1 bedroom units, $7500 for 2 bedroom units, and $8500 for units with 3 or more bedrooms. Housing Development Action Grants (HoDAG) terminate October 1, 1989.

Housing for the handicapped. The act amends the section 202 program to address housing for the nonelderly handicapped. 15% of section 202 funding shall be for housing for handicapped families. HUD is to develop distinct standards and procedures reflecting differences between housing for the handicapped and senior citizens.

Aliens in assisted housing. PHAs may permit alien families to reside in assisted housing where the head of household or spouse is a citizen, national or alien resident. The PHA may defer termination of assistance for 6 months, which is subject to renewal for an aggregate of 3 years.

Management and preservation of HUD-owned multifamily housing. The 1987 housing act directs HUD to manage or dispose of HUD-owned projects and those subject to a mortgage held by HUD that is delinquent or being foreclosed in a manner that preserves affordability for low- and moderate-income persons. Where HUD is not in possession, owners are required to contract for management services in a manner that keeps the property affordable. HUD shall enter into section 8 contracts with buyers at foreclosure sales for units occupied by low-income persons and vacant units. Contract rents should provide for the rehabilitation of units to rent at fair market rents. Upon receipt of an offer to purchase, the first right of refusal goes to local governments and state housing finance agencies with HUD offering assistance at least as favorable to what is made available to a prospective purchaser. The governmental entity has 90 days to match the offer and purchase the property. HUD is prohibited from approving the sale of any loan or mortgage held by HUD on any subsidized project or formerly subsidized project unless the transaction will ensure continuation of terms as advantageous to tenants as they were prior to assignment through the maturity date of the loan or mortgage. The statute permits HUD to carry out negotiated sales of subsidized or formerly subsidized mortgages without competitive selection with state or local government agencies or groups of investors that include at least one governmental entity. This provision applies to 221(d)(3), 236, rent supplement payments, and section 8.

The 1987 housing act creates a revolving loan referred to as a Flexible Subsidy Fund for major repair or replacement of capital items in multifamily housing (236, 221(d)(5), rent supplement, some sec. 8, and sec. 23). Under this revolving loan program, an owner must contribute at least 20% of the cost of the improvement. The owner contribution requirement is waived for nonprofit corporations.

PRESERVATION OF LOW-INCOME HOUSING

Sections 221(d)(3), 236 and FmHA 515. An owner may prepay a mortgage on these properties only if HUD approves a plan of action submitted by the owner. If this provision is deemed unconstitutional by a court, then the statute imposes a two year moratorium on prepayments.

An owner must file a notice of intent to prepay with HUD and the state or local government agency. The plan of action must describe the impact of the prepayment on tenants. HUD will offer incentives to continue use restrictions, e.g. increase in allowable distribution or other measures to increase rate of return on investment, revisions to method of calculating equity, increase access to residual receipts accounts or excess replacement reserves, insurance for second mortgages, rent increases under sec. 8 or extension of project-based assistance, financing of capital improvements, and actions to facilitate transfer to nonprofit organizations, public agencies, etc.

HUD is to use the following criteria in evaluating an owner's plan of action: will not increase economic hardship or involuntarily displace tenants, the supply of affordable housing is sufficient, plan has been approved by appropriate state or local government agency. HUD may approve a state strategy to preserve units.

HUD is to notify owner of deficiencies in plan of action within 60 days and respond to plan within 180 days. If the plan cannot be approved within 300 days, HUD may, upon owner's request, modify regulatory agreements to ensure adequate expenditures for maintenance and operation, extend expiring project-based assistance, permit rent increases, etc.

These agreements will expire after four years beginning with enactment of this act. HUD is to confer with state and local governments on prepayment decisions. HUD may make second mortgage refinancing available.

Rural housing FmHA 515 contracts entered prior to 12/21/79 (for which the original contracts did not have 20 year use restrictions). HUD is to provide notice of request to prepay to tenants, nonprofit organizations and state and local government agencies. HUD is to make every efforts to reach agreement to extend use restrictions for 20 years by offering incentives to owner, e.g. increase in rate or return, reduction of interest rates, sec. 8 rental assistance, equity loans. If agreement is not reached, owner must offer to sell to nonprofit organization or public agency at fair market value. If no offer to purchase is made within 180 days, HUD may accept offer to prepay. Loans are to be available to nonprofit organizations and public agencies to purchase the projects. HUD may only approve prepayment on 5000 units per year.

Termination of sec. 8 assistance. Owners must provide HUD and tenants one year notice of intent to terminate a contract (90 days for certificates and vouchers). HUD should consider actions to avoid terminations, e.g. adjust contract rent.

RURAL HOUSING

The statute establishes a demonstration rural housing voucher program consisting of 7500 units in 5 states. It also establishes a rural housing guaranteed loan demonstration programs for moderate income borrowers which is capped at 10% of a state's FmHA 502 homeownership authority. It requires FmHA borrowers to escrow taxes and insurance. The statute restricts FmHA from reducing, canceling or refusing to renew assistance based on an increase in a borrower's adjusted income if the borrower was unable to affordable the resulting payments. HUD is directed to carry out a rural rental rehabilitation demonstration program and conduct a study of mortgage credit in rural areas. FmHA loans or insurance for manufactured homes placed on permanent foundations shall be repayable over 30 years.

MORTGAGE INSURANCE

The statute provides permanent insurance authority for FHA. It terminates the section 235 homeownership program.

The 1987 housing act establishes a demonstration program of insurance of home equity conversion mortgages for elderly homeowners. These mortgages may be purchased by a secondary market. Interest rates may be fixed or variable (capped at 5% above original rate) and involve future sharing of the appreciated value of the property between the mortgagor and mortgagee.

COMMUNITY DEVELOPMENT
AND MISCELLANEOUS PROGRAMS

Community Development Block Grant Program.

The 1987 housing act makes a number of changes in the CDBG program.

Targeting. 60% of funds in the aggregate over a three year period must be spent on activities that benefit low- and moderate-income persons.

Metro city deferment. Cities becoming eligible to be metropolitan cities and those that were not classified as metro cities in the preceding year, may defer their classification as metro cities and join urban counties. Cities may elect not to retain metro classification in FY 88 and 89.

Urban County Definition. To qualify as an entitlement county, an urban county must have a population of 200,000 (excluding the metro city) and combined population of 100,000 in the unincorporated areas and included units of local government. Where the combined population is less than 200,000, the population from the unincorporated areas and units of local government must in the aggregate represent the preponderance of low and moderate income persons residing in the county.

Transition formula for counties losing entitlement status. Any urban county classified as an entitlement county in FY 83 or subsequent years shall retain such qualification through 9/30/89 or longer period covered by cooperation agreements entered during FY 84. The transition formula after FY 89 for counties falling below the 200,000 population threshold is full entitlement funding for the first year, and 50% of their allocations in the second year. The other half of a county's allocation in the second year will be added to its state allocation from which the county can receive funding.

Opt-in. Local governments can join an urban county during the 2nd and 3rd year of the cooperation agreement period.

Eligible activities. Grantees may make loans as well as grants to nonprofit organizations and local development corporations. CDBG funds may be expended for projects which anticipate a future use of property or facilities, especially with regard to economic development projects. The act streamlines the detailed description of an energy-use strategy that is eligible for CDBG funding.

of Great Lakes flooding and erosion. CDBG funds may be used under urgent needs to alleviate threat and rectify damage if activities principally benefit low and moderate income persons.

Housing assistance plans. Grantees must specify activities to minimize displacement and preserve or expand housing for low- and moderate-income persons, and specify separately the activities for low-income and for moderate-income persons.

Citizen participation. The statute requires grantees to certify that they are following a detailed citizen participation plan, which includes neighborhood participation, reasonable and timely access to meetings, information and records, technical assistance to groups developing proposals with the level and type of assistance determined by the grantee, public hearings at all stages of the community development program, and timely written answers to complaints and grievances within 15 days where practicable.

Residential antidisplacement and relocation assistance plan. This provision was substantially modified from its original version. It applies to CDBG and UDAG projects.

1. Requires one for one replacement of occupied and vacant but occupiable low and moderate income units that are demolished or converted in the development of luxury residential projects or commercial or industrial projects that do not principally benefit low and moderate income persons. The replacement housing must be within the same community and house the same number of occupants. The replacement housing may include existing housing assisted with project-based sec. 8 assistance and must remain affordable for 10 years.

2. Low and moderate income displacees are entitled to relocation benefits. They also are entitled to sufficient compensation to ensure that their rent does not exceed 30% of income for 5 years. Housing assistance is limited to amounts available under section 8, public housing and loan repayments from the project. Displacees can elect a lump-sum payment equal to the capitalized value of benefits in order to participate in a housing cooperative or mutual housing association. In the alternative, a displaced person can opt to receive benefits under the Uniform Relocation Act. Claimants may appeal to HUD, and HUD's decision is final unless found by a court to be arbitrary and capricious.

3. The requirement to provide replacement housing is waived where an adequate supply of habitable, affordable housing for low- and moderate-income persons is available.

4. Indirect displacees are not entitled to benefits.

5. These requirements become effective October 1, 1988.

Limited new construction. This is permissible where housing is owned and occupied by low- and moderate-income persons, and where the need for reconstruction was not determinable until after rehabilitation already commenced or the reconstruction is part of neighborhood rehabilitation. There must be a finding that the housing is not suitable for rehabilitation, and the cost of new construction is less than the fair market value after substantial reconstruction.

911. CDBG may be used for the development, establishment and operation of a uniform emergency telephone number system for two years where at least 51% of the users will be low- and moderate-income persons, other federal funds are not available, and the percentage of cost paid with CDBG and which is considered to benefit low and moderate income users is the percentage of low and moderate income persons.

108 loan guarantees. Eligible uses are expanded to housing rehabilitation and economic development activities.

UDAG. 65% of funds will be awarded on basis of impaction, distress and project quality; 35% on the basis of project quality only. Amends project quality criteria, provides additional points if a community has not received a UDAG in two years. Urban counties may use data within 15 miles of proposed project, including metro cities, under specified circumstances. $10 million is the maximum grant for any project. The statute prohibits use of UDAG for business relocations and expansions from one UDAG eligible community to another.

Urban Homesteading. Priority is to be given to lower income families. Permits localities to determine a family's ability to afford homeownership. Extends through FY 89 the program for states and local governments to purchase single family homes. Nonprofit organizations may take title and convey homes directly to homesteaders.

Section 312. Prohibits imposition of risk premiums or loan fees.

Extension of flood insurance and crime insurance programs. Eligible structures are those located along shores of lakes or other water which are subject to imminent collapse as a result of erosion or undermining caused by waves or water levels exceeding cyclical levels and which are condemned by local governments. Payments following condemnation equal 40% of the value of the structure. Following demolition, the payment is 60% of the structure's value or the cost of demolition, whichever is less. If the owner choses to relocate. payment is either the lesser of 40% of the structure's value or the cost of relocation.

Fair housing initiatives program. The legislation authorizes grants, contracts or cooperative agreements to state or local governments, nonprofit organizations or other public or private entities for enforcement, education and outreach programs. HUD is to develop guidelines for testing activities.

Home mortgage disclosure act. Extends HMDA to mortgage banking subsidiaries of a bank holding company, savings and loan holding company, or savings and loan service corporation.

Lead-based paint poisoning prevention. Requires removal from assisted housing, including sec. 8 and public housing. Expands detection and abatement procedures to housing constructed or substantially rehabilitated prior to 1978 in which children seven years of age or younger reside or are expected to reside. Requires inspection of interior or exterior intact and nonintact painted surfaces that may contain lead. Potential purchasers or tenants must be notified if lead content exceeds specified standard. Public housing authorities are to inspect vacant units, conduct random inspection of occupied units and all units in a building where lead-based hazards are discovered.

Manufactured housing. Requires HUD to issue cost-effective energy conservation standards.

Foreclosure procedures for HUD-held single family homes. The act nullifies the right of redemption in foreclosure sales.

Domestic goods. HUD is to encourage the use of materials and products that are mined or produced in the United States in all housing assistance programs.

Nehemiah housing opportunity grants. The housing act authorizes this program, consisting of loans to families purchasing homes that are constructed or substantially rehabilitated. The loans are secured by a second mortgage, up to $15,000, which bear no interest, and are repayable upon sale, lease or other transfer.

Eligibility is capped at families whose income is the median income for a family of four in MSA. However, 15% of families may have incomes up to 115% of median income where local government is attempting to maintain or achieve neighborhood stability. Families must make 10% downpayment. Generally the homes must be concentrated in a single neighborhood and located on contiguous parcels of land.

ENTERPRISE ZONES

The act authorizes the concept of enterprise zones, but on a limited scale. HUD in consultation with the Secretary of Agriculture and other federal departments and agencies shall designate 100 enterprise zones. One-third of these zones must be in rural areas. Selection will be based on the degree of poverty; rural areas will be ranked separately.

State and local governments nominating areas for designation must submit a specified course of action which are designed to reduce various burdens borne by employers or employees in such areas. HUD may waive or modify rules in enterprise zones that HUD has authority to promulgate in order to further job creation, community development or economic revitalization.