# OVERSIGHT OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## HEARING

BEFORE THE

## COMMITTEE ON FINANCIAL SERVICES
## U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

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# OVERSIGHT OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**Tuesday, March 11, 2008**

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
*Washington, D.C.*

The committee met, pursuant to notice, at 10:03 a.m., in room 2128, Rayburn House Office Building, Hon. Barney Frank [chairman of the committee] presiding.

Members present: Representatives Frank, Waters, Maloney, Velazquez, Watt, Meeks, Moore of Kansas, Capuano, Clay, McCarthy of New York, Baca, Lynch, Scott, Green, Cleaver, Ellison; Bachus, Jones, Biggert, Miller of California, Capito, Feeney, Hensarling, Neugebauer, Marchant, McCarthy of California, and Heller.

The CHAIRMAN. I apologize for the little delay. The hearing will come to order. This is the annual hearing on the budget of the Department of Housing and Urban Development, specifically the budget that was submitted. We will later this week be voting on a somewhat different version, but this is our chance to talk about it with the Secretary. Mr. Secretary, welcome. Thank you for accommodating our schedule.

Secretary JACKSON. Thank you, Mr. Chairman.

The CHAIRMAN. I want to begin by saying that the budget that the President submitted is not disappointing, because I had no expectations, but it is seriously inadequate to the job that this country faces, particularly in light of the subprime crisis.

Now let me say, Mr. Secretary, we will be asking you about the budget, and you are a loyal member of this Administration and I do not expect you to share your innermost thoughts, and indeed, it would be inappropriate. You are a member of the Administration, and I understand your obligations. It is not my impression that this is a budget that reflects what the people who have operating responsibilities of HUD would have liked, and so when I talk about its severe shortcomings, I really am describing, I believe, decisions made elsewhere. But we need to talk about the consequences.

The cutbacks that we see in programs like Community Development Block Grant (CDBG) would have been distressing in any period. They are especially distressing this year when we have at the city level in particular the consequences of the subprime crisis and the foreclosures.

I will be speaking later to the National League of Cities and I will be expressing my sympathy for the problems not of their making which have landed in their laps. One of the problems they have now is a good deal of foreclosed property, property that used to pay taxes, now not only does not pay taxes, but consumer services; police services, fire services, and building inspection services.

To propose reductions in Community Development Block Grant funding in the face of this is as stark an abdication of what the Federal Government's responsibility ought to be to our partners in governance at the local level as I could imagine.

There are also reductions proposed for the construction of housing for the elderly and for the disabled. These are grave errors, in my judgment. One of the things we learned, I believe, from the subprime crisis is that a shortage of affordable rental housing has consequences beyond simply the denial of opportunity for people to live good lives, but there was a push factor into this housing situation.

Basically, we have a national policy that has decided to fund a war in Iraq, a very expensive war, which I thought was a mistake from the outset, while making substantial reductions in other programs. One of the jobs of this committee is to help show the consequences of those cuts. I will also be talking to you, Mr. Secretary, about a very specific issue, and that is the situation in Mississippi concerning money that this committee initiated in a collaboration between our colleague from North Carolina, Mr. Watt, and our former colleague from Louisiana, Mr. Baker. They took the lead in trying to put some money toward alleviating the plight of people, particularly lower income people, who were hurt by Hurricane Katrina in Mississippi. That has not worked out as we thought, but I understand that there may be frankly some flaws in the way we did that legislatively and I will be looking to you to see that we—assuming some disasters will come again—legislate better for it.

But the basic point of this statement is to say that in the current situation with urban America in a difficult situation, with urban America bearing the brunt of the national crisis, it really is outrageous that the Administration, to fund its war in Iraq, comes forward with a budget that so substantially underfunds these important urban initiatives.

Finally, let me say, and I am glad the whole team is here, there are some areas of agreement and at 5:00 today, the ranking member and I will be once again going over to the Senate to see if we can work out an FHA bill. We are hoping that we can do that. The Commissioner is here. That is a collaborative effort that I hope will go forward.

But we cannot, in this hearing, focus on other things to the exclusion of our deep unhappiness. I will just summarize. To cut Community Development Block Grants, which has been such an important program dating from the days of Richard Nixon, that provides such important support to the cities, when they are under the extreme stress brought about by the subprime crisis, is one of the most blatantly uncompassionate examples of public policy imaginable.

And the one thing that gives me some solace is that it is clear to me that it will be ignored by the Budget Committee. It will be ignored by the Appropriations Committee, and I think we can confidently predict that in an overwhelmingly bipartisan way, the Appropriations Committee will ignore this budget to a great extent, and I doubt very much when it comes to the Floor with the President's priorities repudiated that there will be any substantial Republican effort to restore them.

The gentleman from Alabama.

Mr. BACHUS. I thank the chairman for convening this oversight hearing of the Department of Housing and Urban Development. Let me begin by welcoming Secretary Jackson back to the committee.

Secretary JACKSON. Thank you.

Mr. BACHUS. I have always found your testimony to be insightful, and I look forward to hearing your assessment of the state of America's housing markets. Immediately after your testimony, I will be leaving to address the Conference of State Treasurers, and Secretary Paulson speaks right after I do, and then we're on a panel. And even though I don't mind being late, I don't want to make him late.

I look forward, as I say, to hearing your testimony and your assessment of the state of America's housing markets and the role that HUD, and particularly the Federal Housing Administration, can play in helping to stabilize these markets during the current downturn. You have been a forceful advocate for legislation to modernize the FHA, and I know you share my view that it is long past time for the Congress to get a bill to the President's desk that will allow FHA to assist more Americans seeking to buy a home or refinance an existing mortgage.

In recent years, the housing market has fueled this Nation's economy as Americans bought and refinanced homes in record numbers. Now nearly 70 percent of American families own their own home. But recently we have seen a growing inventory of unsold properties that has resulted in falling prices. A sharp rise in the number of foreclosures has caused investors to reassess the risk inherent in the housing market, which in turn has constricted the availability of mortgage credit.

Many Americans are struggling to make their mortgage payments, and a growing number of homeowners find themselves in a negative equity position with the size of their mortgages exceeding the current value of their homes. These are difficult times, and it's not surprising that some are beginning to look to the Federal Government for solutions to the serious problems that exist in the housing sector.

As I previously stated, I believe it is important that before we authorize any broad new government intervention into the mortgage market we make sure that we're not creating new moral hazards that we will pay for dearly later, and above all, that we're being fair to all Americans.

There are millions of homeowners who have carefully budgeted and planned to pay for their homes and are doing so, and we should think very carefully before we ask them to subsidize those who weren't so careful or are now having second thoughts about financial decisions that were made when everyone believed housing prices would climb forever. Whatever action we take should not penalize those homeowners who are making sacrifices to honor their obligations and their contract and keep their families in their homes, or those who are renting while they try to accumulate the necessary savings to achieve homeownership.

It doesn't seem fair to shift the risk and responsibility that investors, lenders, and borrowers willingly and eagerly assumed when home prices were on the way up to the great majority of taxpayers who were not party to these mortgage transactions now that prices are going down.

Mr. Secretary, we would welcome your views on what effect a multi-billion-dollar Federal program to assume troubled mortgages could be expected to have on FHA's safety and soundness. We also hope you will update the committee on your efforts to reform housing programs under HUD's jurisdiction and make them more efficient and cost-effective, and particularly on your recent initiative to reform and simplify implementation of the Real Estate Settlement Procedure Act, RESPA. We have obviously been down the RESPA reform road in this committee before, and I'm anxious to hear from you today how this latest proposal differs from previous efforts.

Mr. Secretary, we thank you again for being here. I look forward to your testimony.

Secretary JACKSON. Thank you very much.

The CHAIRMAN. The gentlewoman from California, the Chair of the Housing and Community Opportunity Subcommittee, is now recognized for 3 minutes. Ms. Waters.

Ms. WATERS. Thank you very much, Mr. Chairman. I think this is an important hearing that we're having today. We have so many important questions that have been generated by members of this committee, and it is no secret that there is a great difference of opinion about this President's budget and the direction that many of us would like to see our government take on behalf of working people and poor people.

For the 8th straight fiscal year, the Administration's budget slashes programs that provide housing and supportive services to our country's poorest, disabled, and elderly households. It underfunds the Section 8 Housing Choice Voucher Program, starves local housing authorities of the resources they need to sustain and modernize public housing stock, and cripples the Community Development Block Grant program.

Allow me to summarize just a few of these proposals. Funding levels for HUD 811 supportive housing for the disabled and HUD 202 supportive housing for the elderly are cut by 32 percent and 27 percent, respectively. If enacted, these reductions would leave these programs at funding levels 40 percent below their Fiscal Year 2001 appropriations. The budget reduces funding for the maintenance and modernization of aging public housing units of $400 million relative to Fiscal Year 2008. Collectively, the President's Public Housing and Operating Subsidy requests for public housing would cut this essential program by fully one quarter in comparison to its Fiscal Year 2001 appropriation.

HUD remains determined to continue an unsustainable policy of incrementally funding Project-Based Section 8 contracts, which threatens the participation of thousands of private owners in the program. The budget once again proposes to eliminate the HOPE VI program, which the House of Representatives recently voted to reauthorize on a bipartisan vote of 271 to 130.

Finally, the budget zeros out the Section 108 local guarantee program and basically ends with the Community Development Block Grant program being cut by $657 million compared to last year. If enacted, the President's budget would put CDBG funding at about one-half its appropriation in Fiscal Year 2001.

From a technical budgeting perspective, the analysis I have seen suggests that we can't count on a large recapture in the Section 8 program to make it easier to bail out as it recaptures—well, let me just go to the second point. Second, the Nation is today in a housing crisis unlike any since the Great Depression, much less in comparison to prior fiscal years under President Bush. In light of skyrocketing foreclosure figures across the country, with block after block of homes already sitting abandoned in some cities, it simply boggles the mind that the President would put before Congress a Fiscal Year 2009 budget that disinvents in the Federal affordable housing and community development safety first.

Mr. Chairman, instead of completing my statement, which is rather long, I'm going to yield back my time so other members will have an opportunity for an opening statement. But I think that the sense of where I'm coming from with this budget is captured in the limited time that I had to make the presentation. Thank you very much.

The CHAIRMAN. I thank the gentlewoman. We were going to have another opening statement from the ranking member of the Housing Subcommittee, but in the interest of time, if there is no objection, we will allow her a couple of extra minutes when she gets to her 5-minute question period so that she can preface her 5 minutes of questions with an opening statement. If there is no objection, we will proceed that way. Mr. Secretary, please go ahead.

**STATEMENT OF THE HONORABLE ALPHONSO JACKSON, SECRETARY, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Secretary JACKSON. Thank you, Chairman Frank. And I want to thank you and Ranking Member Bachus and the members of this committee for this opportunity to appear here today.

Mr. Chairman, I am here to present the Fiscal Year 2009 HUD budget. But before I do that, Mr. Chairman, I want to thank you and the entire committee for the priority given to FHA modernization. And I agree with you, Mr. Chairman, that we need the legislation right away. As you and your Senate colleagues finish work on this important legislation, I should mention the Administration's priority with respect to what's in the final bill.

First, the legislation must allow HUD to address the recent explosion of loans where a seller provided buyers with downpayment assistance and then is added to the price of the home. These loans have a foreclosure rate 2 to 3 times the norm. They are costing hardworking Americans their homes, and these types of loans have pushed FHA to the brink of insolvency.

Second, Congress should allow FHA to proceed later this year with some flexibility in setting premiums. I assure you, we have no intentions of increasing premiums on the bread-and-butter customers. But a few modest changes will strengthen FHA's ability to offer a safe alternate to homeowners who want to refinance out of high-cost subprime loans and will actually allow us to reduce premiums from our potential homeowners with lower incomes.

Such legislation would fit in well with the general direction of the President's budget. The proposed budget is fiscally sound, representing a historical investment of $38.5 billion for the programs at HUD. This is an increase of more than $3 billion, or 9 percent over last year's budget. The budget is almost $1 billion more than our current budget authority. The funding will be timely and on target for people served by the Department. We need this budget to maintain current homeownership and stimulate new purchases. It will help us expand our current efforts.

And let me put the budget in context. Last year, the President and I introduced FHA Secure to help more Americans facing foreclosure to refinance into safe and more secure FHA loans. We did this using the current regulatory authority. And we have been able to make FHA available to more qualified families. There has been a noticeable increase in the number of closings. We believe that FHA Secure will help about 300,000 families refinance into affordable FHA insurance. FHA Secure has proven to be extremely valuable.

Mr. Chairman, you should also know that in only 5 months from September 2007 through January 2008, FHA has pumped more than $37.5 billion of much-needed mortgage activity into the housing market as of today. More than $14.7 billion of the investment came through FHA Secure. FHA modernization would greatly assist our effort. As you know, the economic stimulus package provided a temporary 10-month window. We now announce the new loan limits—we announced new loan limits last week. They will help hundreds of thousands of people nationwide in this country.

But this is no substitute for FHA modernization, which would raise the loan limit permanently and also provide other important changes that would benefit American homeowners. In addition to these actions, we also take steps to ensure it is easy for homeowners to understand the fine print when they do sign on the dotted line. That's why we are committed to RESPA. We're in the process of publishing the Real Estate Settlement Procedure Act rules and hope it will bring much needed transparency to the home buying process.

Now the budget will work in concert with these actions. For instance, the proposed budget appropriately increases the funding for housing counseling. America needs the President's request for $65 million in the budget for housing counseling. These funds, in addition to NeighborWorks America's $180 million, provide great services to those who reach out. Many Americans facing foreclosure would have greatly benefitted from housing counseling. We know it works. Last year 96 percent of the households that saw HUD-approved housing counseling and completed the program avoided foreclosure. This fund will help partially address the crisis and prevent another such situation in this country.

We also need to continue government efforts to partner with the private sector to help build back the housing market. The HOPE NOW Alliance is a good example. HOPE NOW is a private sector volunteer industry efforts to address foreclosure through freezing interest rates and working directly with financially troubled homeowners. I also commend a recent effort by the HOPE VI Alliance members to provide temporary pause for homeowners in foreclosure proceedings. These actions provide direct assistance to those who need it right now. They are the sort of responses providing quick help for the homeowners today.

As in the past, Mr. Chairman, the largest part of the budget is for affordable rental housing. Combined, this budget seeks more than $29 billion for our rental assistance program, which we expect will help more than 4.8 million households. We are mindful of the continuing need for more affordable rental housing, especially for low- and moderate-income workers still finding themselves priced out of the market in many of our cities. We need to maintain the units currently available and expand the numbers. The budget will help us do that.

Finally Mr. Chairman, the homeless must not be forgotten. We are making strides to cut the number of chronic homeless within our continuum of care approach. For the first time ever, we saw a decrease in the number of chronic homeless last year, a drop of 12 percent. We must continue the progress. Our budget once again seeks to increase the homeless programs to continue this good work.

Mr. Chairman, I know that you are mindful of the need to help our Nation's homeless veterans. Americans are deeply, profoundly grateful for the service and sacrifice these veterans have made. In this proposed budget, there is a request for $75 million for our Veterans Affairs Supportive Housing program. Prior to 2008, this Program had not been funded since 1993. Working with the Veterans Administration, we will create an additional 9,800 vouchers for Fiscal Year 2009. This will bring the total to approximately 20,000 homeless veterans being served through housing and social service needs.

Overall, this is a good budget for the Department—balanced, reasonable, approachable, and workable. It will allow us to operate within the framework of cooperation and partnership with related Federal agencies and other levels of government and nonprofit agencies.

Mr. Chairman, as we proceed through the budget process, I look forward to working with you and the members of the committee and thank you for listening.

[The prepared statement of Secretary Jackson can be found on page 53 of the appendix.]

The CHAIRMAN. Thank you, Mr. Secretary. Let me begin with one very important point that is very much an issue now. You mentioned in your written testimony, and you also said orally, "By temporarily increasing FHA loan limits we can back more safe, sound mortgages in high-cost States and help homeowners trapped in exotic subprime loans to hold on to their houses." That is now being discussed. What would the consequence be if in the FHA modernization bill we did not take action and the loan limit went back to what it was, $362,000? What impact would that have going forward?

Secretary JACKSON. I think, Mr. Chairman, it would have a devastating effect on places like Virginia all the way back to Maine, Vermont, Utah, all the way back to California. I was out in California with Governor Schwarzenegger and announced the $729,000. The Realtors were overjoyed, because finally we will be able to help people within those markets. As of to date, we would not be able to help any persons out west or the east coast for that matter if we went back to $360,000.

The CHAIRMAN. Thank you. And I think frankly, having gone to the higher limit, if we were now to drop back that would be exactly the kind of destabilizing, "Oh there goes the unreliable government again." I should also add that some have argued, "Oh well, don't help—don't go to the higher limits," which are median prices; they are not for wealthy people in some parts of the country, given the house prices. Because people say well, that will come at the expense of the low-income people. But in fact, the Congressional Budget Office gives us a positive score when we do that, so that in fact generates money that we can use for the increased FHA counseling, for instance, that we are all in agreement with. So it is exactly the opposite, the argument that if you raise the limits you somehow take it away from lower income people. You increase the resources within the FHA for that purpose.

Let me say with regard to the rate setting—and I understand your point, and I will tell you this—I'm not going to ask you for any extensive comment. If there was no OMB, we would be a lot more willing to give you the freedom. But when you are, Mr. Secretary, free at last you come back here, and we will talk about giving you some of that authority. But right now there is something over there to stick with, the same motif, and I don't think we can afford you that.

Let me turn to the issue of Mississippi, because I want to be honest. I was critical when you gave the waiver to the Mississippi, and we discussed it; you were available. But I now believe that a large part of the problem came with our drafting. And I was pleased, frankly, and I'm going enter into the record your letter dated January 25th—or at least I received it on January 25th, I don't know when it was actually sent—to Governor Barbour in which you say—as you grant him the permission to divert funds from CDBG to a port project. And you say, "Although economic development is important, the port expansion will create jobs and serve as a significant regional economic driver, I remain concerned that this expansion does indeed divert emergency Federal funding from other more pressing recover needs, most notably affordable housing." And then you mention they try to put some money in. In the future, when we do this kind of legislation, would you advise us to be more—to give you more discretion to say, "yes," or "no," and to in fact have some ability to say, "Well, no. That's not a good diversion?" Would you respond? What would your advice be? And, you know, we are going to have emergencies in the future. What should we do?

Secretary JACKSON. As I said to you when I spoke to you, Mr. Chairman, and also responding to the chairwoman of the subcommittee's response, I think it would be a positive step that we have more flexibility to approve what occurs. At this specific time, the language was very clear.

The CHAIRMAN. I think this is a rare case where what you need is more flexibility to disapprove. That's because as you interpret this—and we can have some differences —but I do think—

Secretary JACKSON. I think I made it very clear in that letter that I would prefer that—

The CHAIRMAN. Right. There is one criticism that I would make of the procedure, Mr. Secretary, and that is that we didn't find any record that—it did give you the power to grant the waiver, but they didn't actually ask for a waiver, as we can see it. It just wasn't done in a formal way. The problem there is that, even if we did this badly, we want to make it very clear that this is not what CDBG was meant to do, and we don't want to set the precedent that this is an appropriate use of Community Development Block Grant funds. We would have liked to have the waiver actually document what did and didn't happen. And I think, even by their own admission, the percentages of 50 percent for low- and moderate-income people, 51 percent of the jobs for low- and moderate-income people, that Mississippi didn't comply with that. Now, I agree we could have done a better job of giving the ability to resist that. But I do think it should have been documented better.

With that I'm going to turn to the ranking member of the subcommittee who was here, and we are going to give her 3 minutes for her opening statement, and then her 5 minutes for questions or 7 minutes for a really long question. Ms. Capito.

Ms. CAPITO. Thank you, Mr. Chairman. And thank you, Mr. Secretary. I'd like to welcome you back to the committee. As the ranking Republican on the Housing and Community Opportunity Subcommittee, I have a particular interest in two programs I want to talk about.

First, I want to commend you for your commitment to the housing for the disabled. The Section 811 program provides assistance to expand the supply of housing equipped with supportive services for persons with disability. The Fiscal Year 2009 budget requests $160 million for the Section 811 program budget, a $35 million increase over the 2008 budget request. This program is especially important to my constituents in the second congressional district of West Virginia. It's my hope we'll continue to improve this for the 21st century.

The other program I'd like to talk about is the President's budget of $540 million for the supportive services for the elderly, the Section 202. Up to $80 million of these grant funds will be targeted to the service coordinators who will help elderly residents obtain supportive services from the community. Last year, with bipartisan support, this House passed H.R. 2930: Section 202 Supportive Housing for the Elderly Act of 2007, on a motion to suspend the rules. But while we were drafting this legislation, I had heard concerns from many housing advocates in my district about the ability of rural States to use all of the funds, because the program included a mandated allocation of a percentage of funds to non-metropolitan areas. For a small State like West Virginia, this could mean a loss of four to five units, because it is difficult to find developers willing to work on such small projects in rural communities. Thankfully, we were able to correct this problem by moving the mandated allocation from the State level to the regional level, and

I thank you for working with us on that. I look forward to continuing the work on ensuring that rural seniors receive the benefits of affordable housing, and I urge the Senate to take action on this Section 202 legislation.

I want to applaud the Secretary's innovative approach to financing Sections 202 and 811. The President's Fiscal Year 2009 budget requests $10 million and $15 million mixed financing demonstration projects for Section 811 and Section 202. These projects will remove some barriers from using low-income housing tax credits and will help develop more units to serve our most vulnerable populations. Mr. Secretary, again we're very pleased to have you here, and I look forward to working with you. And I'd like to ask you a couple of questions if I may.

Secretary JACKSON. Thank you.

Ms. CAPITO. First of all, last year in testimony before this committee, there was a bit of a controversy in terms of the late housing assistant payments, and I think we did a temporary fix to try to patch that up. In your testimony, you described how you're going to be updating your aging IT infrastructure with $313 million of a budget request for working capital. Will this help resolve some of these problems, and what is the status of that particular issue right now?

Secretary JACKSON. We have come very close to resolving it. We have clearly enough funding to go into 2009 to make sure that all of the providers are paid on time. It is important that we upgrade our capital improvement system. We're pretty close to being on top of this subject, and I think that if we can get monies for our information technology fund we can really address this issue very clearly. But one of the priorities that I have made to not only the chairman here, but also the chairman on the Senate side is that we are going to do everything to make sure that there is continuity, so that the providers will be paid in a timely manner, and we will not have this issue again facing us as we did the last couple of years.

Ms. CAPITO. I think we were all stunned, and I in particular, to realize that you were waiting in the mail for things to arrive and things to be date stamped and all those sorts of things when in this day of technology so many things, including our tax returns soon, are done online. So I appreciate any movement you can do on that and keep us up-to-date.

The CHAIRMAN. That is a very good point. Look, when we get into the budget process or the appropriations process, we are often tempted to go to some of the administrative accounts to fund the things that have more political appeal: "Oh, let's cut this thing." I'm struck by this. I think we probably—I hope we can have a kind of bipartisan alliance on this committee to protect the IT account, for example. Because we can predict when an appropriations bill comes to the Floor, giving the allocation that somebody is going to say, "Well, let's do more Section 8," or other things that will have some political appeal. And I would look forward to working together. Maybe we can go to our friends on the—the appropriators generally do the right thing. And then on the Floor, these things are kind of easy pickings. I would hope we could work together and agree on the Floor that we would, in a bipartisan way, defend these unglamorous but very necessary accounts. I thank the gentlewoman.

Secretary JACKSON. Mr. Chairman, I truly appreciate that. Because right now, we are funded to about 9 months, and this is very critical. We have cut down on the number of IT systems that we had in HUD, and the quicker we get this resolved, the less problems we are going to have making sure that this does not happen to the providers.

Ms. CAPITO. Thank you. I have one last question then. I had a meeting in my home office with some constituents and a developer who uses the low-income housing tax credits to develop some very nice properties in our State. And they are extremely concerned about the credit crunch and how this is—what do I want to say? It's becoming an issue not only in housing and in mortgages but into the ability or the willingness of developers to want to jump into this. Are you finding that nationwide? And how are you going to address this?

Mr. SECRETARY. Yes. And let me have Brian Montgomery speak to that specifically. It is becoming a problem.

The CHAIRMAN. Commissioner, why don't you come up? We will have the Commissioner speak to it. And I took some of the gentlewomen's time, so the time will be standard.

Mr. MONTGOMERY. Yes. There has been a constriction of the use of tax credits. It varies State by State. I think a couple of months ago, tax credits were probably getting 90 or 93 cents on the dollar. I think you're seeing that down, down to 80 or 82 cents on the dollar. So some States are looking for better uses of the tax credits. And I mean the beauty of the program is the fact that States make the decision, but you see a shortfall in some States. Other States don't know what to do with it, which is why we propose those two demonstration projects to better target via a set-aside, a qualified allocation plan, whatever, the use of credits for Sections 202 and 811 for elderly and disabled housing.

Ms. WATERS. Let me ask the gentlewoman to yield again, because as the members already know and the staff has been talking, we have been collaborating since last January with the Ways and Means Committee. And we expect soon to have legislation that will take the low-income housing tax credits requirements and those that come from the appropriations process, like Sections 811 and 202, and mesh them better. Everybody I have ever talked to who has tried to get them together tears their hair out because the Congress has given them somewhat inconsistent rules, and we hope—and think this would be virtually unanimous—it will save a lot of time and energy in the private sector. We hope fairly soon, and we're just waiting for Joint Tax to give us their reports, to have legislation that will make it possible for a developer who is trying to use low-income housing tax credits and the appropriations process to have them work together in a much easier, less frictional fashion.

Ms. CAPITO. I think that's a good collaborative effort, and I certainly support that. And I—

The CHAIRMAN. Okay. We'll probably have our piece—it's going to be done—the member should know—Ways and Means is going to do their piece, and we will do our piece. I expect it to pass through markup; I think it will be overwhelmingly supported; and then the Rules Committee will merge the two.

Ms. CAPITO. And finally, I'd just like to make a comment that FHA modernization, I think, is something that we can't keep stuck in the mud here. We have—it has broad-based, I think, collaborative feeling that this is a lifeline to some people who are having difficulty with their housing. It also is something whose time is well past due, and something that we need to do. So I would encourage the members of the committee, and I want to thank HUD for their ingenuity and energy in trying to move this forward with the rest of us. Thank you.

Secretary JACKSON. Thank you all.

The CHAIRMAN. The gentlewoman from California, the Chair of the Housing Subcommittee.

Ms. WATERS. Thank you very much, Mr. Chairman. Mr. Secretary, as you know, the unmet needs in the Gulf Coast are still overwhelming. Whether we talk about Mississippi or New Orleans, we still have people who are displaced living in other sections of the country. Many would like to return. The housing production certainly has not been what many of us believe it could have been. You recently got some surveys back. As you know, I have been focused on public housing. You got a survey back that talked about who wanted to come back and who did not want to come back. And in that survey you talked about 35 percent of those who lived in public housing didn't really want to return to public housing. Can you explain to me how you intend to accommodate even the 35 percent? What are you going to do with the other 65 percent who may be out there on Section 8? And where are you in your dismantlement of public housing units? Have you renovated any of those units? And can I get a correct count on the offsite public housing that you're supposed to have, where the numbers change quite often, as I try and check on what you have that's scattered housing? Can you help me understand how you're meeting these needs? And also help me to understand what kind of assurances did you have from Governor Barbour about diverting the $600 million to a port, when I don't think the assurances were there to tell you how he's going to met the unmet needs in Mississippi for housing? Can you help me understand this?

Secretary JACKSON. Sure. I think that's a fair question. Let me answer Mississippi first. In approving the $600 million for the port, one of the things that we did extract from Governor Barbour and the State of Mississippi is an additional $200 million, which brings the limit up to $350 million that is used for low- and moderate-income workforce housing. And we'll be happy to share that with you, because it's very clear—

Ms. WATERS. Where does the $250 million come from?

Secretary JACKSON. He had $150 million already in there, and we asked for an additional $200 million, which he added to the process. So we have $350 million right now for low- and moderate-income workforce housing.

Ms. WATERS. That's in phase two?

Secretary JACKSON. That's in phase two. Yes.

Ms. WATERS. $350 million left over?

Secretary JACKSON. That's what we made—I won't say we made him—asked him to allocate, and he did.

Ms. WATERS. Go ahead, please.

Secretary JACKSON. Okay. I can't tell you the intricacies of the studies that we had done. All I know is we tried to be extremely fair. We had a very diverse group of people who put the questions in place to be used by the University of Texas, and one of the persons was a person who was very intricately involved in bringing the lawsuit, so we tried to include everyone. And we wanted to make sure that there was no deceptive practice on the part of anybody, that we got as fair and accurate answers as we could. And we think we have gotten that. For those persons who want to come back, we are going to do everything in our power to make that happen. To date, there is no one who is in public housing or on a voucher who does not have a place to stay or live today. And we're going to make sure that occurs until the public housing is rebuilt, because I think that would be somewhat cynical if we didn't do that. So I believe we're doing everything in our power. And lastly, let me say this to you. I respect and agree with you that I want everyone who wants to come back to have an opportunity to come back. I don't want to deter anyone from coming back to their home.

Ms. WATERS. Mr. Secretary, why can't you fill the so-called, "scattered housing" that you have claimed over the past 2 years that you have with people who want to return?

Secretary JACKSON. If there is anyone who wants to return, we are doing everything in our power really to get them back.

Ms. WATERS. Why can't you get—how many scattered units do you have available?

Secretary JACKSON. I don't have the answer right off the top of my head. I'll be happy to get—

Ms. WATERS. Can you guess?

Secretary JACKSON. No. I don't want to make a guesstimate.

Ms. WATERS. Do you have any units available in any of the other public housing, like the Gouest or any of those? Do you have any available units?

Secretary JACKSON. We still, right now, have about a little over 250 units that are available. All we have to do is move the stove in, the air conditioning in. That's all that's necessary.

Ms. WATERS. Mr. Secretary, you have been telling me that you have had units available for the past year-and-a-half or so. Why can't you move people back who want to return to those units and put them in those units, whether they're scattered or whether they're in the public housing?

Secretary JACKSON. Well, I will say this. I think that if you read the survey, many of the people do not want to come back to those units.

Ms. WATERS. Let's just talk about the 35 percent who do want to come back. And the units that you have told me that you have had available for the past almost 2 years? Why can't you connect people with available units? Whether it's scattered or whether it's in public housing, it doesn't matter. Why can't that happen?

Secretary JACKSON. I can't make people do what they don't want to do. I don't have that authority or that power. We have asked if they want to come back. We're willing to pay for the lease counseling, the lease. We're willing to do everything. We're willing to move them. But if they do not want to come back I can't—

Ms. WATERS. No. I'm only talking about those who want to come back. I went to Texas, and I met with groups of people who desperately wanted to come back. I did casework trying to connect those people with HANO and HUD to get them back. I can't seem to find a way to get HUD or HANO to take the people who are ready, want to come back, and where you claim you have units to put them in, to get them connected with those units. What does it take?

Secretary JACKSON. Well, I will say this. We're doing everything in our power. And I would respectfully disagree.

The CHAIRMAN. If the gentlewoman would yield, let me propose this: We are out of here, but when we come back, Mr. Secretary, I think we will ask you to send up an Assistant Secretary, somebody with the power here and have a meeting. We will be ready. And we would ask you to come up here and when we come back, and let's have a—we will have a special session just on this one issue.

Secretary JACKSON. I'll be happy to do that.

The CHAIRMAN. And we will do our documentation when we come back in April.

Secretary JACKSON. Mr. Chairman, and Chairwoman Waters, any documentation that you need will be happily provided.

Ms. WATERS. I appreciate that. You can imagine my frustration over the length of time I have been working on this issue.

The CHAIRMAN. I understand. And I—

Ms. WATERS. And what I need, which I cannot get, is I cannot get documentation of units available, whether they are scattered or whether they are in housing developments. I cannot get a description of the process by which they take people who are supposedly online or inline to return to tell me how they do that.

The CHAIRMAN. I think that is a fair point, and I know how long we've been working. That data should be available. Could we get that fairly soon?

Secretary JACKSON. Absolutely.

The CHAIRMAN. When we get that fairly soon—I'd like to get it within a few days—and depending what it looks like, we may just have to have a public hearing on that one topic. But we would like to get the data, the gentlewoman's questions, specifically answered as soon as possible.

Ms. WATERS. The last question, Mr. Chairman, is how many public housing units have you demolished?

Secretary JACKSON. To date, I can't tell you that, because we just started the process.

Ms. WATERS. No. The process started about 3 or 4 months ago, didn't it?

Secretary JACKSON. On one development. Not on all of the developments.

Ms. WATERS. How many have you destroyed so far?

Secretary JACKSON. I don't know, as of to date.

The CHAIRMAN. So shouldn't somebody be keeping track of that, Mr. Secretary?

Secretary JACKSON. Well, that's locally. I can—

The CHAIRMAN. No. But you're local. You're the—you run a housing authority.

Secretary JACKSON. Right. I can get that for you.

The CHAIRMAN. I'm troubled that you don't have it, to be honest.

Secretary JACKSON. No. I really don't. And I'm not going to tell you that I—

The CHAIRMAN. I understand that. But that would seem to be something that—there are a lot of people behind you. We didn't expect you to have it all in your head, but you have a row of people behind you.

Secretary JACKSON. How many have we demolished? Which one is that? At Cooper, Ms. Bloom said that it's 15 percent of the site to date that has been demolished.

Ms. WATERS. And what about Lafitte?

Secretary JACKSON. Nothing has been done to—

Ms. WATERS. What about St. Bernard?

Secretary JACKSON. St. Bernard has just started.

Ms. WATERS. How many have been demolished at St. Bernard?

Secretary JACKSON. I don't know exactly.

The CHAIRMAN. Well, Mr. Secretary, we are going to run out of time here. But let me just say this. You know we have had some differences, and your inability to tell us how many have been demolished, frankly, is going to reinforce the feeling that some of us have that there really has not been enough evaluation of these. I mean demolishing public housing shouldn't be done without a lot more care. The gentlewoman from Illinois.

Mrs. BIGGERT. Thank you, Mr. Chairman. Let me ask one—first of all—I have a couple of questions, so I'm going to try and rush through them. Once again, the Administration has prioritized comprehensive reform of the FHA single-family mortgage program, including a shift in the risk-based premiums, which would allow FHA to serve the low- to moderate-income borrowers. Both the House and the Senate have approved FHA reform legislation, but they take different approaches to authorize in the risk-based premiums. The upfront and annual premium caps are very different. And the Senate bill has a moratorium for 1 year. Of the two proposals, which do you think is the best approach to the FHA modernization? If you can comment on that. And what, if anything, would you like to see added to the final FHA reform bill?

Secretary JACKSON. As I said before, my only concern is with the ability for FHA to have risk-based pricing. I think that we will work with both the House and the Senate. What we want more than anything else, and I think the chairman spoke to that a few minutes ago, is the ability to have an acceptable loan limit, so that we can touch those parts of the country that we were unable to touch until the stimulus package came into being. So that, to me, is the most critical part, because having traveled to the West Coast last week, I know how elated people were in California and Nevada that finally the loan limit had been increased.

Mrs. BIGGERT. Well, there are several ideas floating around for the housing stimulus package, and some proposals suggest expanding FHA Secure. And if the final modernization bill is signed into law, could you expand FHA Secure to help more borrowers without jeopardizing the financial security of the FHA program? I am worried about, and it has been talked about, if you need credit subsidy or raise premiums should this be passed.

Secretary JACKSON. And I think that's a fair question, Congresswoman. We're not going to do anything that would jeopardize the existence of the program. We think that we must be extremely judicious in exercising all of the options that we have to make sure that FHA remains a viable alternate to help people pursue their dream of homeownership. It has been around for 75 years. We have had some down periods. But as I said in my testimony a few minutes ago, we have done almost some $37 billion worth of injection of finances into the system since this process has started with the downturn. And we think it's only going to get stronger if we have the opportunity to help other homeowners. So I think we will make quite a great impression to the economy if given the opportunity with the high-loan limit.

Mrs. BIGGERT. But should Congress be concerned about the health of the fund?

Secretary JACKSON. Well, I think that we should all be concerned about the health of the Fund. Do I think the Fund is going to be insolvent? I don't think so, and I hope not. And we're going to do everything in our power to make sure it doesn't happen.

Mrs. BIGGERT. Thank you. Then I'm going to come back to my issue that has always been of concern to me and that's the homeless. We have had hearings on this. And the Administration's homeless consolidation proposal does not include children or families in the definition of chronic homelessness, and this has been of concern. Aside from the budget considerations, why is it difficult to categorize families and children as chronically homeless? And how do the living patterns of the homeless families, and particularly children lacking permanent housing, compare with homeless single individuals? I know what you're doing for the veterans, and I think that this is a very important issue too. But I'm really concerned about the families and children.

Secretary JACKSON. Congresswoman, let the Deputy Secretary speak to that issue, please.

Mr. BERNARDI. Congresswoman, the definition of chronically homeless is an individual who has been out on the street for a certain period of time and has had recurring incidents. We believe firmly that our budget also takes care of families with children; 50 percent of the budget goes to families with children. But only the chronic homeless is dealing with that, stopping that recidivism, getting these hard street individuals off the street permanently, providing them not only with emergency housing but then transitional and permanent housing. And in the final analysis, they utilize about 50 percent of the budget. So the goal is to make sure that the chronically homeless are—that we reduce that number substantially. And we have. I think the Secretary mentioned that we reduced that by 12 percent from 2005 to 2006. But at the same time our resources are there. And each year in this Administration since 2001, we have had a substantial increase in the amount of money that we use for homelessness.

Mrs. BIGGERT. Well, I appreciate your answer, but I think this is—you know what came up in the hearing too is whether it could be expanded to include people who either double-up or are living in hotels or motels, because of housing. And McKinney-Vento for example, reauthorization, takes a much different view of the definition. And that bill does so. I just don't know why we can't expand the definition of chronically homeless.

Secretary JACKSON. Congresswoman, I think you can. I mean Congress has the power to expand. And if they do, we will implement it.

Mrs. BIGGERT. That's a good answer. Thank you. I yield back.

Mr. BERNARDI. But if I may, when it comes to families with children, the homelessness there doesn't last that long, fortunately. In many instances transitional housing services are provided, and you see those folks move on. It's the chronically homeless who are constantly there and utilizing the resources.

Mrs. BIGGERT. Well, I think from the testimony that we have had that it's not—that's not necessarily true. The concern I have is that everybody expects that they are immediately finding a home, but in reality in some of the cases that we have—

The CHAIRMAN. Will the gentlewoman yield? Just to direct you to one of—some these predate a foreclosure crisis. And as we know, one of the problems with foreclosures is that tenants are evicted. You know, there are innocent tenants who are sitting there, and their landlord got foreclosed. Is that having an impact on the homeless problem? It would intuitively seem to be. That as you increase evictions—

Secretary JACKSON. Yes. That is clear, because there are renters who were not aware that the owners of the homes were in foreclosure.

The CHAIRMAN. And in some cases, they hare given very little notice. We are trying to deal with that in our bill, but I would think in support of what the gentlewoman said that those would be families—that a family would find itself evicted with no preparation, no notice; they didn't know what was going on with the lender. And they have 30 days to vacate. And I would guess that would be part of this problem.

Mrs. BIGGERT. And I would just—to yield back—say that I really think that—I would argue that homeless children should be our top priority. And then I would yield back.

Secretary JACKSON. Thank you.

The CHAIRMAN. The gentlewoman from New York, the Chair of the Financial Institutions and Consumer Credit Subcommittee.

Mrs. MALONEY. Thank you. I'd like to ask a few questions about one of the most successful programs to help deserving people with housing in New York City and probably across the country, which is Section 8. You have not asked for the $9 billion that is needed to fully fund Project-Based Section 8. And my question is why are you just asking for funding through this fiscal year, through September 30th, and why not for the full 12 months? Because owners of buildings that would be getting this Section 8 are very nervous, will not take it now, because they have no confidence that the program is going to be fully funded. So it appears to me that the policy that you're following is a way to de-fund or unravel Section 8 for Project-Based housing.

Secretary JACKSON. I would respectfully disagree with you, Congresswoman. I think that if you had said that a year ago, you would have been absolutely correct. We have begun to address that issue. And I think the chairman asked that just before you came in. We feel very comfortable that every landlord or provider knows now that they are going to be paid, and paid timely.

Mrs. MALONEY. Now how do they know that they are going to be paid timely if you're only funding it through September 30th?

Secretary JACKSON. No, it is funded to the 2009 period.

Mrs. MALONEY. It is funded through 2009?

Secretary JACKSON. Yes. It is.

Mrs. MALONEY. With how much money?

Secretary JACKSON. I'm not sure how much money. I think it's totally funded where we will pay every provider.

Mrs. MALONEY. Can you get us how much you put in the budget?

Secretary JACKSON. I'll be more than happy to.

Mrs. MALONEY. To pay every provider through 2009?

Secretary JACKSON. I sure will.

Mrs. MALONEY. Because I feel that it's estimated to be $9 billion, yet it's not in your budget, as I understand. Or your proposed budget.

Secretary JACKSON. I'll be happy to get that for you. There's no problem.

Mrs. MALONEY. And the tenant-based formula. In the tenant-based formula, why is the Department going back to the old formula based on data that is 2 years old? And as I understand it from the central staff of the committee, this would result in a loss of over 100,000 vouchers across the country, and many of course would be in New York City. So why are you basing it on a formula that is 2 years old, thereby lowering the number of vouchers?

Secretary JACKSON. We're not, Congresswoman. What we have done is budget-based. We're no longer using unit-based costs to—

Mrs. MALONEY. You no longer use—pardon me? The what?

Secretary JACKSON. Unit-based.

Mrs. MALONEY. You no longer use the tenant-based? You're just doing project-based?

Secretary JACKSON. No. Budget-based. We're giving the housing authority a budget to work with so they'll have more flexibility in how they manage the program. We went off the unit-based pricing 2 years ago, and that's what they're speaking in reference to.

Mrs. MALONEY. So you no longer fund Tenant-Based Section 8?

Secretary JACKSON. No. We do, but it's budget-based. It's not based on units, as it had been the past.

Mrs. MALONEY. And when you say units, you mean tenants?

Secretary JACKSON. No. Units.

Mrs. MALONEY. Excuse me. You know—I don't see what you've changed. You say you no longer fund Tenant-Based Section 8, where the tenant can shop for the Section 8 housing?

Secretary JACKSON. We do.

Mrs. MALONEY. But you've changed it to unit-based?

Secretary JACKSON. No. It was unit-based to the housing authority. They got a number of units. Let's say that Fort Worth, Texas, got 400 units.

Mrs. MALONEY. So in other words, your Section 8 can only go to public housing?

Secretary JACKSON. The Section 8 program is funded and actually administrated by the public housing agency. The tenant-based. It's not administered by anyone else. The project-based is to a project that has been developed.

Mrs. MALONEY. But in New York, at one point, they could take a Section 8 voucher and go to any housing project. The tenant made the decision of where they went.

Secretary JACKSON. No. They didn't go to any housing development. They went to a market-rate apartment somewhere in the City of New York.

Mrs. MALONEY. Exactly. But they made that choice. The tenant made that choice. So you have taken it away from the tenant making the choice and giving it the public housing project. Is that what you're saying?

Secretary JACKSON. No. That's not what I'm saying.

Mrs. MALONEY. What are you saying?

Secretary JACKSON. I'm saying that the program is always administered from the housing authority, period. They have to allocate the voucher to the person.

Mrs. MALONEY. Right.

Secretary JACKSON. The person has the flexibility to go shop the voucher around to find the apartment that he or she wants to live in.

The CHAIRMAN. And that hasn't changed?

The SECRETARY JACKSON. That has not changed.

Mrs. MALONEY. But have the number—the vouchers have fallen by 100,000—according to central staff—that you're providing.

Secretary JACKSON. No. Because it's budget-based, we're no longer having unit-based. We're not giving the housing authority of New York City units. We're giving them a budget, and they can operate within that budget structure.

Mrs. MALONEY. Well, I have been told that it will be a loss of 100,000 vouchers. Whether you call it a unit or a tenant-based or a housing authority based, and any cutback in Section 8 is bad news for public housing, period.

Secretary JACKSON. We've increased the budget each year, so I really feel comfortable that New York, as other areas, can operate. And I've had this conversation before.

Mrs. MALONEY. So the number of Section 8 vouchers going to New York and other places is increasing this year?

Secretary JACKSON. We've increased the budget by $100 million.

Mrs. MALONEY. Does that mean 100 more tenants will be able to afford housing?

Secretary JACKSON. It's according to what section of the country you're in, because you have a higher per capital plan in New York than you would have in Dallas, Texas. It's according to where you live.

Mrs. MALONEY. My time is up, thank you.

The CHAIRMAN. The gentleman from California.

Mr. MILLER OF CALIFORNIA. Thank you, Mr. Chairman. I have been a developer for over 35 years, and you and I have talked about recession, Mr. Secretary. And I think at the time if you have a significant housing recession, at that time it's the worst anybody has ever seen, they say.

Near the 1980's, I remember when the prime rate went to 21 percent, and you couldn't get a loan. It was awful. During the 1990's, when it was awful also starting in about February/March of 2000, it was awful for a long time. And the problem was within those recessions we had high unemployment.

This time it is also bad again, and it's not surprising that we have all-time record foreclosures, because we have all-time record homeownership at the same time. And much of the problem we face today is in the subprime market, which is expanded. And most of those loans should be considered predatory, because when you make a loan to somebody you know can't pay it back, it is problematic.

Chairman Frank touched on something that he and I worked very hard on for a long time, and that is raising conforming in high-cost areas and FHA in high-cost areas. And your statement I think is most proper saying that this temporary increase will help a lot of people out there who are stuck in the exotic loans to be able to maintain homeownership.

That I think is absolutely true, but would not it also be applicable to say doing this permanently would in the long run help a lot of people in the future be able to buy a home, understanding that FHA and Freddie Mac and Fannie Mae have good underwriting standards? They are not going to you know, decrease those in any way, shape, or form. Would it be a good program to continue permanently rather than just on a temporary basis?

Secretary JACKSON. Congressman, yes. And I think I said that to the chairman when he asked.

Mr. MILLER OF CALIFORNIA. I just wanted to hear you say it again, because I have been waiting for a long time to hear you say that.

Secretary JACKSON. I agree, I agree.

The CHAIRMAN. We need you to say it really loud so they hear it in the Senate.

Mr. MILLER OF CALIFORNIA. Some don't have ears.

Secretary JACKSON. Absolutely, I think that it would be a major plus. And that is why we want it at an acceptable level, and that is why we want FHA modernization passed. And I think the stimulus package demonstrates that when we raised it to the limit that we did.

I was out in your State last week, and it was unbelievable when I gave the answer to Los Angeles and Orange County, because immediately the Realtors realized that they would be able to refinance into a safe, secure loan with FHA.

Mr. MILLER OF CALIFORNIA. It has a huge positive impact. In fact, Barney and I suffered the banks fighting us for years. And I have heard many Presidents and CEO's of banks saying what a great program it is to do this, because when they sell high-cost areas they can buy a home in the low-cost areas, but they can't move out of the high-cost to move into a low-cost.

Another area that I have some concerns with, I remember we all fought for the American Dream Downpayment Assistance Program that we implemented. And we talked, we gave speeches. And a lot of the arguments we heard in favor of that was to pattern it after the private sector downpayment assistance program. Now there seems to be an argument today that program is awful, it's horrible, the foreclosures are extremely high.

I mean, of the nonprofit downpayment assistance program they probably put a million people in homes who wouldn't have a home otherwise. And some argument is being made that perhaps 20 percent of those might be in some problematic stage. That still leaves 800,000 people in homes who wouldn't be in the homes.

But when I met with the Commissioner, I had a concern when they said that the foreclosure rate was higher than the nonprofit, you know, private sector downpayments assistance programs. And I said, "Can you give me the data showing what percentage are in trouble on the private sector versus what percentage are in the American Dream Downpayment systems?"

I was supposed to get that, but then about a week later, they came back and said, "Well, the information is not available to us to give to you." Can you please explain to me how then HUD believes that the private sector is undergoing extremely high percentage of foreclosures and not American Dream Downpayment Assistance Act when we don't have the data in HUD differentiating the two?

Secretary JACKSON. I wish I could, but Congressman I cannot comment, because this matter right now is under current litigation.

Mr. MILLER OF CALIFORNIA. I thought those were all settled.

Secretary JACKSON. No.

Mr. MILLER OF CALIFORNIA. Oh, so there are two lawsuits that have been resolved, but there are still more underway?

Secretary JACKSON. I cannot comment as the Secretary.

The CHAIRMAN. Excuse me, Mr. Secretary, but I know that people often say that. Has any judge ordered you not to comment on this?

Secretary JACKSON. Yes, sir.

The CHAIRMAN. Can I see the order from the judge?

Mr. MILLER OF CALIFORNIA. They have, they have yes. But I didn't know I couldn't talk about the program in general. I knew I wasn't going to speak specifically to the litigation, which I wasn't trying to do. My concern is that I believe the private sector is doing a good job. And they put a million people in homes who would otherwise not have a home.

And if we are saying that there is a problem in that sector, if we mandate that they have the same identical underwriting standards as HUD uses on the American Dream Downpayment Program, if they use the same standards, the same underwriting, the same appraisal standards, why would one be problematic when the other one is not if they are using the same standard?

I know you can't answer this, but this is a real concern for me, because I remember hearing speeches when I voted for the American Dream Downpayment Assistance Program that this worked so well in the private sector that we need to expand it by having government get involved, because we can put all these people in homes who could not otherwise afford a home. Look at how much more we can do by involving the government.

And if we just look at the numbers, I mean it seems like there is something we could do. Let me ask you another question then. I heard arguments saying that the MMFI and the HUD's budget is problematic because of the high foreclosure rate. Is there a minimum capital ratio that is for the MMIF, percentage-wise?

Secretary JACKSON. Brian.

Mr. MONTGOMERY. The capital ratio that Congress sets for the MMIF fund is 2 percent, and currently we are at about 6 percent.

Mr. MILLER OF CALIFORNIA. That is what I thought. And my concern Mr. Chairman is, and the information given to me, if we require 2 percent and I checked the data and you had 6 percent, and your projections between 2007–2014 that your actual increase 50 percent. How can there be a problem if we are triple the requirement that we are supposed to have currently?

I mean, I would honestly expect that the foreclosure rates for people who don't have any money would probably be higher than people who have money. So if a person doesn't have 3 percent down, and they want to participate in the American Dream Downpayment Assistance Program, we are going to give them 3 percent. Or if they want to participate in the private sector, somebody other than the government is going to give them 3 percent.

And I would, I would actually expect that the foreclosure rates would be higher for people who don't have any money. And Mr. Secretary, you and I have talked about helping people get into houses. So I really would like the data when you get it, because I am having trouble understanding—

The CHAIRMAN. Well let me, we are going to run out of time, but see if they have a response for the gentleman—

Mr. MILLER OF CALIFORNIA. Oh, okay. I don't believe you can, but okay.

Secretary JACKSON. We will try to, we will get it to you today.

The CHAIRMAN. As long as you have a court—

Secretary JACKSON. You have a 6 percent, that's—

The CHAIRMAN. I can't imagine that a court order would interfere with the transmission of factual data.

Secretary JACKSON. No.

Mr. MILLER OF CALIFORNIA. You said the funds at risk, you are required to have a 2 percent and you have a 6, I don't see a risk.

Mr. MONTGOMERY. If I could respond to that, the Credit Reform Act requires those loans, a book of business made in that fiscal year beyond budget. Yes, over the net present value of those loans, over the life of those loans, yes, we have a great capital reserve meeting over those 30-year programs. Based on our modeling right now, we will keep $21 billion more than we will pay out.

For credit reform requires again, those books of business beyond budget for that year, and this year is where the problem is.

Mr. MILLER OF CALIFORNIA. Well, I would expect there to be a problem—

The CHAIRMAN. Your time has expired.

Mr. MILLER OF CALIFORNIA. Oh, that's too bad, thank you.

The CHAIRMAN. The gentlewoman from New York.

Ms. VELAZQUEZ. Thank you, Mr. Chairman. Secretary Jackson, local governments rely on CDBG to create fertile environments for families and jobs to grow in our communities. The City of New York for example, uses it for everything from going after landlords and cleaning up the Bronx river to providing funding after the 9/11 attacks to help businesses and the community to get back on their feet. However, the President's budget will cut funding for CDBG by nearly 20 percent. How do you expect States and cities to continue their economic development activities given the proposed cuts?

Secretary JACKSON. We have put before you on a number of occasions proposals to revamp the Community Development Block Grant to make sure that it addresses the needs of cities that really need the program. I don't doubt for one moment that New York needs the program, but there are certain cities around this country that don't.

And I think it is very important that we begin—

Ms. VELAZQUEZ. You are telling me that there is no city across America that does not need funds to promote economic development?

Secretary JACKSON. Yes.

Ms. VELAZQUEZ. And create jobs?

Secretary JACKSON. Yes, yes.

Ms. VELAZQUEZ. So why are you cutting the budget for CDBG?

Secretary JACKSON. I said there are certain cities that from our perspective do not need the concentration of Community Development Block Grant Funds.

Ms. VELAZQUEZ. Which cities?

Secretary JACKSON. Like Palm Beach, Florida, one of the richest cities in the country.

Ms. VELAZQUEZ. So then why can't you use the entire, that money to increase the investment of resources to continue to promote economic development and job creation at a time when the economy is suffering so much?

Secretary JACKSON. That is a very excellent question. If you—

Ms. VELAZQUEZ. Yes, because it could respond to the intent of the stimulus package.

Secretary JACKSON. May I answer please?

Ms. VELAZQUEZ. Yes, sure.

Secretary JACKSON. If you would pass the proposed legislation that we have, we would be able to use the money by specifically pinpointing those cities that deserve it most. And that is all we are saying, is that the formula that we have had since 1974 does not fit the needs of major cities today, and I would like to zero in on those cities.

The best example I can give you is Canton, Ohio, where I know you have severe problems, or Dayton, Ohio, which I was just at, you have severe problems, or portions of New York City where you have severe problems.

Ms. VELAZQUEZ. Have you proposed legislation to this committee?

Secretary JACKSON. Yes, I have.

Ms. VELAZQUEZ. Well, I'll look into that. Sir, most of our Nation's public housing developments range in age from 40 to 70 years old and are getting older everyday. For seniors and families in public housing, one more year adds to the cost of needed repairs.

So these needs are so great that your agency has encouraged PHAs to borrow funds from the capital market to pay for their current repair needs. PHAs use public housing Capital Fund grants to pay for both the repair needs and the financing. In the President's Fiscal Year 2009 budget however, he is proposing to cut Public

Housing Capital Fund grants by over $400 million. It is a 17 percent decrease from last year. Can you explain why you urge PHAs to borrow on one hand and cut their means to borrow with the other?

Secretary JACKSON. Let me say this, that back in the early 1990's, we had what we called the Commission on Severely Distressed Public Housing. We came to the conclusion that there were 88,000 subprime units in this country and they should be demolished. To date, we have demolished 150,000. So a lot of housing authorities have less units than they had.

And I think that the capital funds that they had, it kept pace with that. Also, what is very, very important is this: Many of the properties that are in these major cities have increased so much in value that they can issue bonds to make sure that the property is maintained. And we can still pay the payment back to us to make sure that the property sustains itself.

I think that having done that myself, I don't have a problem.

Ms. VELAZQUEZ. So the Federal Government is running away from its responsibility—

Secretary JACKSON. No.

Ms. VELAZQUEZ. —to provide for capital funds to keep those projects.

Secretary JACKSON. No. I would not say we are moving away from our responsibility. I think we have the appropriate amount of capital funds going to the major housing authorities in this country. I think that if they use innovativeness and use their bonding power, they can address their needs.

Also, it is important that we are going to asset-based management. You know we have many housing authorities around this country that buildings are sitting empty and we are paying people for them.

Ms. VELAZQUEZ. It is okay, you have an excellent question for every answer. My last question sir, your agency estimates the percentage of elderly heads of households assisted by HUD to be 35 percent in New York, 35 percent in Chicago, 34 percent in Boston, and 31 percent in Los Angeles. Can you tell me in what ways HUD is identifying any program or creating any program to provide services to the aging population within public housing?

Secretary JACKSON. I am sorry Congresswoman, I really didn't get the question.

Ms. VELAZQUEZ. There is a growing need, special needs for those who live in public housing who are becoming seniors. And they live in public housing, they are not on Section 202. So what types of programs do you have in place to address the health needs and other services that are going to be required by this aging population?

Secretary JACKSON. Well I will tell you that our responsibility as the Department of Housing and Urban Development is to provide them housing, decent, safe, and sanitary conditions. We don't address the medical issues or the issues that might come from living in assisted living. That is not something that is within our mandate.

Ms. VELAZQUEZ. Okay, maybe you need to introduce legislation to do that.

The CHAIRMAN. Mr. Secretary, I may have missed something. I thought you said there were 88,000 distressed units, of which 150,000 have been demolished. So we demolished what, 62,000 non-distressed units?

Secretary JACKSON. No. What happened, as the years went by, more and more units were distressed, and they took that into consideration and began to demolish those units.

The CHAIRMAN. How many were replaced, do we know?

Secretary JACKSON. We have had a substantial number of those—

The CHAIRMAN. We don't know?

Secretary JACKSON. No.

The CHAIRMAN. All right. That reinforces my view that there is a lack of concern here. When we know more about how many were destroyed than we know about how many were replaced, I think that is symptomatic of an undervaluing of the existence of the units.

Secretary JACKSON. No sir, I would disagree.

The CHAIRMAN. Well then, why don't we know how many were replaced?

Secretary JACKSON. Because we have outstanding right—to date, $1.4 billion dollars in HOPE VI monies that were supposed to do those units that have not been used as of today by how—

The CHAIRMAN. I have seen it, but that doesn't—you still should know how many were replaced if we are concerned about that. We are trying to fix up the HOPE VI program.

Secretary JACKSON. As of to date, 60,000 have been replaced.

The CHAIRMAN. Well, you got that answer in a hurry, thank you.

Secretary JACKSON. I got it from my person.

The CHAIRMAN. Credit, those people are doing something sitting back there. The gentleman from Texas.

Mr. NEUGEBAUER. Thank you. Mr. Secretary, it is good to have you here again. And I was glad to hear you say that FHA has underwritten about $37 billion worth of mortgages to help bring some additional liquidity. Were all of those loans made to refinance subprime loans that were already on the books?

Mr. MONTGOMERY. Between October 1st and January 1st, the number is about $38 billion that we have injected into the market. About $15 billion of that is FHA secure. So $38 billion total, $15 billion of that is FHA secure.

Secretary JACKSON. That is the new program that the President, the Congressman, and I announced in August.

Mr. NEUGEBAUER. You know one of the things that I think has been kind of interesting and obviously, many of us are ready to get the FHA reform bill passed and get to making FHA even more than it is today. But I think it is kind of interesting, we have had diminished interest in FHA, and now all of a sudden we have a bunch of folks who are in trouble and everybody is looking for someone to come in and just step in and fill some of those voids.

My big concern here is that we do not want to diminish the solvency of FHA. I just want to be on the record and be very clear to you that as we are underwriting these loans, I hope we are learning lessons from the past here. And how we got into this dilemma was the fact that we were not appropriately underwriting many of these loans. And in many cases, the risk being taken far exceeded the potential return on that mortgage.

So I'm hopeful that as you are looking at those, and certainly I think with the additional loan limits, that is going to open up some new avenues for you. But I think it's, we need to be very clear here that we have to get back to basics with housing. How we got in the housing jam today is that we got very creative in one way but we got very careless in another way.

And I think it's more the carelessness than the creative. I am not opposed to creativity. But when you start not getting appraisals and not verifying people's income and their assets. And I have heard this term used, and I think it has been used a lot here lately, we are putting people in homes who ordinarily couldn't afford one, and we thought that was a good thing.

Secretary JACKSON. Right.

Mr. NEUGEBAUER. But what we do to people when we put them in a home that they can't afford is we set them up for failure. And so we have to be very careful here as we make policy in this Congress that we are not putting people in a home that they can't afford, but that we are giving people an opportunity. And when we start talking about downpayment assistance and where we are, basically putting people into a home that have no equity, no skin in the game if we would.

I think we have to be very careful of that. The principle that most Americans grew up in is you save up money so that you can own a home, and until you do that you live in other forms of housing. And that's the reason you are the Secretary of Housing, that homeownership is one aspect of housing, but we have been talking about others.

Which brings me to my question, what is the status, and we have heard a lot about other agencies of what their loan portfolios are. What does the FHA portfolio look like? What are your delinquency rates? What are your foreclosure rates and are you within your statutory requirement?

Secretary JACKSON. Right.

Mr. MONTGOMERY. Our foreclosure rate is a little less than 2 percent. A lot of the problems that you are seeing in the subprime market you are not seeing within the FHA program. We, our delinquency rate is about 6 or 7 percent, but that also has a lot to do with the fact that FHA has excellent loss mitigation programs, which is a technical term for foreclosure prevention.

The last thing that we want to do is foreclose on an FHA borrower, so we have various steps along the way when a borrower gets in trouble to prevent them from going to foreclosure. As a matter of fact, families who hit a rough spot and go through the program, 2 years later, 92 percent of them are still in their homes, and that is a good record, we think.

Mr. NEUGEBAUER. And as far as your reserve requirement in statutory, what is your number today?

Mr. MONTGOMERY. The capital reserve requirement is 2 percent, we are at a little more than 6 percent, somewhere around $20 billion. But again, that is not to be confused with what the Credit Reform Act requires. Our long-term outlook is good using the capital reserve standard. But again, from the Credit Reform Act, the fact that we are taking in too many higher-risk loans, that is what threatens our solvency for this year.

Mr. NEUGEBAUER. And when you say you are taking too many, do you believe you are taking too many?

Mr. MONTGOMERY. Well, these are not the refinancings that are causing us to go more positive in our credit subsidy. Quite frankly, a lot of the conventional FHA refinancings that we are doing right now, which we have done 117,000 in the last 5 months, have a decent amount of equity in it. Again, it is more borrowers, purchase borrowers who are using the seller-funded activity that are the higher-risk loans now.

They have default rates, or rather claim rates 2½ times higher than those who don't have that type of assistance.

Mr. NEUGEBAUER. Thank you.

The CHAIRMAN. If I may, the gentleman pursued a very useful line of questioning. And this is the second time, Commissioner, that you have noted a pessimism on the Credit Reform Act that does not appear to be based in the economic reality of your reserves. And I wonder whether you might be willing to work with us on a better appraisal.

This sounds like a case where if we mark-to-market, it would go up rather than down. So I think maybe on a bipartisan basis, we might want to work with you to see, because this is the second time you have mentioned that the credit, and answer the question if you weren't—other. But it does look like the Credit Reform Act may be unduly restrictive and might in fact lead to an argument for increases when the economic reality doesn't require them.

So I think that is something that if the gentleman from Texas is interested in, we will be working on. And I think that was very useful, thank you. The gentleman from North Carolina.

Mr. WATT. Thank you, Mr. Chairman, and welcome Secretary Jackson. I just want to raise one line of questions, and then I am going to give you an opportunity to explain your overall plan here. But I want to raise the totality of the concerns about fair housing enforcement activities, and then have you kind of help us understand how this all fits together.

If I am looking at the budget, we go from $50 million to $51 million for Fair Housing, $50 million to $65 million for Housing Counseling, and $33.5 million to zero for NCBI LISC enterprise. I assume those would be the three programs in which you would have the most impact on fair housing. I have information that suggests that 13 fair housing groups that were funded previously were not funded in the last round of Fair Housing Grants that were made and 26 Fair Housing Centers either have closed or are at risk of closing due to lack of funding.

I have concerns about what, in the context of the Mississippi transfer of funds to the port, what plans you made for fair housing in that context. And then I have something that suggests, or confirms I guess, which you can refute if it's not the case, that HUD changed its Fair Housing Handbook to prohibit employees to say that a complaint, or prohibit the filing of anonymous complaints about housing. It has to be attributed to somebody now so that they can be identified and potentially retaliated against.

I am just, I know you have a strong commitment to fair housing.

Secretary JACKSON. That is correct.

Mr. WATT. So there must be something in this context that is a plan for aggressive fair housing enforcement. It is just escaping me.

Secretary JACKSON. Okay, I understand.

Mr. WATT. Can you use the rest of my time to kind of explain what your vision is? And I see you have somebody who is working with you on that. So you all help me to understand what your plan is.

Secretary JACKSON. Thanks, Mr. Watt. I would like for Kim Kendrick, who is the Assistant Secretary for Fair Housing and Equal Opportunity to have a chance to address that issue.

Mr. WATT. She is prettier than you and probably knows more about it too. So I am delighted to have her in.

Secretary JACKSON. I won't debate that with you.

Ms. KENDRICK. Good morning, sir. Well, let me address first the number of fair housing groups. You said 13 have lost their funding. That is probably correct. But one of the things that we did this year, what we have done for the last 3 years is we are now funding groups for 3-year cycles. So we have 45 groups that now have funding for 3 years instead of just having groups that are funded at 1 year.

One of the problems with just funding groups for 1 year is that if they lose their funding then we lose the ability of those groups to enforce the Fair Housing Act across the country. So what we have decided to do with the money that we have available is to fund groups for 3-year cycles. That gives them the ability to stay in business for that number of years. As a result of that, because we do have a budget, we do unfortunately, lose some of those groups.

Mr. WATT. We don't appropriate but for 1 year. How do you do that?

Ms. KENDRICK. It is paid for.

Mr. WATT. So basically that means you have groups that are able to do fair housing enforcement. They have the expectation that they can do it for 3 years, but that last year they still are going to have some insecurity. And then parts of the country that don't have any groups doing fair housing enforcement for any years. So I still don't understand how that gives you a more effective plan.

Ms. KENDRICK. I don't think we have two States that, we have three States that don't have any fair housing laws right now. But we still have the Federal Fair Housing Act, which means that our Federal Fair Housing Act covers the entire Nation. So even though we may not have local groups on the ground, we have our own HUD groups on the ground there. So we have enforcement powers for all 50 States. We don't have any State where we don't have any enforcement power, so even though we may not have individual fair housing, independent fair housing groups, we do have a Federal presence in those States.

Mr. WATT. I don't know where that comes in this budget then. We have a net reduction if I put all three of those categories together; where I would expect fair housing to be most involved, there is a net reduction of over $15 million.

Secretary JACKSON. Congressman, let me say this. When you talk about LISC enterprise that was not fair housing, that was an allocation made that, in fact, we were making grants to them to help build more affordable housing around the country. And Congress insisted that we do this on a competitive basis, and that is done on a competitive basis.

And basically that is what you see.

Mr. WATT. Well you can't compete for zero dollars here, though. I mean—

Secretary JACKSON. But that was not for fair housing.

Mrs. MALONEY. [presiding] The gentleman's time has expired and additional questions can be placed in writing.

Congressman Capuano.

Mr. CAPUANO. Thank you, Mr. Secretary for being here. Mr. Secretary, I want to start out by saying that I like some of the budget proposals you've had. I certainly like the increase in fair housing. I really like the increase, the proposed increase in housing counseling and downpayment grants and self-help habitat. There are several things here that I like and support. But, of course, I'm not going to focus on that, because that's good job. Now let's move on to the stuff I don't like.

On the CDBG block grants, you pointed out Palm Beach, Florida, as a potential city that maybe shouldn't qualify under your judgment, and that's fair. Do you plan on denying them CDBG block grant money this year?

Secretary JACKSON. No, I don't have the authority to do that.

Mr. CAPUANO. So you have no discretion in that matter?

Secretary JACKSON. No.

Mr. CAPUANO. So that because you don't like a few cities, you're now going to cut back 18 percent on every other city in America because you don't have the discretion that you think is right?

Secretary JACKSON. No. That's not what I'm saying. I said we have proposed legislation before you.

Mr. CAPUANO. I understand that, but the legislation hasn't passed, and when it passes, that's fine. I'd like to—are there elderly that you don't like getting money as well, Section 202 money?

Secretary JACKSON. No. We have demonstration programs that are going on where we're leveraging the money, and we think that all of those developments now are in full swing. I think we have about 250 Section 202s and we have about 202 Section 811s in progress of being developed right now.

Mr. CAPUANO. So all seniors and disabled people have appropriate and adequate housing in America?

Secretary JACKSON. Well, I don't think we're going to ever get to that point, Congressman.

Mr. CAPUANO. I don't think so either. That's why I don't support a 26 percent and a 32 percent cut in those programs. Have we solved all the lead paint problems in America?

Secretary JACKSON. No we have not.

Mr. CAPUANO. There's no lead paint anywhere?

Secretary JACKSON. No we have not.

Mr. CAPUANO. But a 20 percent cut. Brownfields—all the brownfields in America are all cleaned up?

Secretary JACKSON. Well, we really feel that that's not really our responsibility, and I've said that on a number of occasions here before you.

Mr. CAPUANO. So it's not our responsibility to make healthy neighborhoods?

Secretary JACKSON. No. I think that is one of the other agency's responsibility. Our responsibility is to provide decent, safe, and sanitary housing, and we're going to continue to do that.

Mr. CAPUANO. That's fair enough. I don't agree with you, but I respect the difference of opinion. I want to move on because, I mean, we're going to have some differences of opinion on budgetary matters and priorities, and I understand that. But it's the lack of discretion and the ability of discretion that really troubles me, because I think that's really what it's all about. Once you get to a bottom line, it really does depend on your discretion and the discretion of the people who work for you. And I will tell you that the letter to the Governor of Mississippi was troubling to me. I just want to ask. When you say that you have little discretion—in your letter, you said you have little discretion—does that mean no discretion? Or does that mean little discretion?

Secretary JACKSON. I think the legislation was very clear. It said "we shall." It didn't say "we may."

Mr. CAPUANO. So that you don't have little discretion. You have no discretion?

Secretary JACKSON. Basically, no discretion.

Mr. CAPUANO. All right. Because "little discretion" troubles me, because I always argue with people that when you have a little discretion, use it. And especially when you go on to say you're concerned that there may be significant unmet needs of affordable housing, which I agree with, but I'd like to know what is it that you think that is unmet in the region?

Secretary JACKSON. Well, I don't think that everything has been provided to low- and moderate-income people that should be provided for housing or infrastructure. So I totally agree with you. But had I had my d'ruthers, I probably would have said, sir, I don't think we should be using this money and I would not approve it. But I didn't have that kind of authority.

Mr. CAPUANO. I appreciate that, but again, when I see the word "little discretion," that means there's something. That means there's something you hang your hat on. And I would prefer, especially if I believe in something, if I have something to hang my hat on, unless I know I'm absolutely not going to win, I push for what I believe in, and if I lose in court or I lose later on, so be it. But if you really felt strongly about it that the people in that area had not been fairly met, their needs hadn't been met, I would have suggested that you should have done what you think is right and let the Governor of Mississippi chase us.

Secretary JACKSON. Well, Congressman, I would say that under normal circumstances, that would be the case. But when you ask your general counsel what is the authority that you have to authorize this and they tell you that clearly there is none, then you have to do exactly what they say.

Mr. CAPUANO. Well, two things happen. Number one, I've had general counsel, and when the general counsel tells me that I can write a letter that says I have little discretion, that means my general counsel has told me I have something. And then I turn to my general counsel and say, well, thank you for your advice. I'm the boss. This is what we're going to do. And your general counsel says, okay, I understand. As long as I can defend you and I can't tell you you're breaking the law. And if your general counsel then quits the next day, well, then maybe you went a little too far.

Secretary JACKSON. Well, I think under normal circumstances, I would agree with you again. But when the legislation is very clear, and that's what they're there for is to interpret the legislation that you passed, and you all passed this legislation and that's the interpretation.

Mr. CAPUANO. Then I would suggest that the next letter you write should clearly say, "I have no discretion," as opposed to little discretion. But I also want to talk about the next batch of money. Now I will tell you that, you know, I have, hey, let's talk. I have some needs in the Boston harbor, and I'd love to expand it. Can we talk? Do you have any extra money that you have some discretion over that, you know, would help low- and moderate-income people? It would create jobs.

Secretary JACKSON. If you'll pass the legislation, we'll authorize it.

Mr. CAPUANO. I would if you give me some money.

Secretary JACKSON. Well, we don't give money. You give us the money.

Mr. CAPUANO. So if I do that with an earmark to Boston harbor, you're all set?

Secretary JACKSON. Well, if you pass it, yes.

Mrs. MALONEY. The gentleman's time has expired. Additional questions can be placed in writing. Congressman Clay.

Mr. CLAY. Thank you, Madam Chairwoman. Mr. Secretary, good morning.

Secretary JACKSON. Good morning.

Mr. CLAY. I visited New Orleans with my family in November of 2007, and the tourist area looks as if nothing had happened to it, and that part of the City was still beautiful. Then I toured the devastated areas of the City that was caused by the hurricane. I was shocked and appalled by the ghost town that I observed.

Commercial streets had heavy traffic. However, the shopping centers were deserted. There were no grocery stores, no drug stores, and not too many schools were open. No Burger Kings, no McDonald's, no Kentucky Fried Chicken. Parking lots were overgrown with grass, and residential streets were deserted. Sometimes one house on a block was occupied. Sometimes one would go three blocks before seeing an occupied house. There were no children playing and very few children to be seen at all.

What happened? I remember the speech that President Bush made at Jackson Square that promised to rebuild the City. What happened to all of the promises that he made? And why is over 60 percent of the pre-hurricane population, why is it still not back in New Orleans? What has happened to the billions and billions of dollars that were poured into the City for its rebuilding?

Secretary JACKSON. Congressman, I think that's a fair question. What I can tell you is this: We allocated the money to the State of Louisiana. They set up the Louisiana Recovery Authority, which was to administer the money. President Bush made it clear to us that we were not to dictate what occurs in that State; that was the Governor's responsibility.

To date, they hired an agency called—a group called ICF. They were to disburse money, help people get back in their homes. They have paid them an extraordinary amount of money, but we have not seen the results of what has been accomplished in that process. So I can't sit here and debate with you that as I travel back and forth to New Orleans, I can't debate with you that things are not where I want them to be, because they're not where I want them to be. I would think with the amount of money that we allocated to Louisiana, they should be further ahead than where they are.

And I think that the present Governor, Governor Jindahl, will tell you that, that we—I won't say we—for some strange reason, the money was not used very well, and I'm not sure what kind of audit is being done at this point on the ICF to demonstrate the amount of money that they were paid compared to the assistance that they gave many of the residents in New Orleans.

Now with the process of bringing people back home, I can't speak to everyone, but we have done everything in our power for those who were on subsidies, whether it was public housing or Section 8, to get them back. In fact, in many cases, we were paying 150 percent over market rate, some places 170 percent over market rate, because we want to do everything that we can in our power to get people back who want to come back home. I think that's the only right thing to do, and the President has instructed us to continue to do that.

And that's why we did the survey at the request of Chairwoman Waters. She wanted a survey to see who wanted to come back home. We did the survey. And we had some of the people who basically were suing us as part of the survey team, because we wanted a balanced answer to the question.

Mr. CLAY. Is that indicative of why the President's point man left? I just read recently where he resigned from, you know, from being the liaison to the White House over the reconstruction of the Gulf Coast.

Secretary JACKSON. I can't tell you specifically, but I can say this about my friend, Don Powell. He was very frustrated in working with Louisiana, very frustrated.

Mr. CLAY. I can imagine. Can we move on to Mississippi? There's one issue—and my colleagues have brought up the issue of the money for building docks and dredging the harbor, but why was $25 million diverted to a project in northern Mississippi that was not in the affected area, and how do we account for these dollars?

Secretary JACKSON. I don't know exactly what you're speaking in reference to, but if you'll tell us, I will be happy to get—

The CHAIRMAN. If the gentleman would yield, it is a Toyota plant in northern Mississippi that is getting some money.

Secretary JACKSON. I will get an answer. Do you have an answer? This is Nelson Bregon—

Mr. CLAY. Good morning.

Secretary JACKSON. —the General Assistant Secretary of Redevelopment and Planning.

Mr. CLAY. Good morning.

Mr. BREGON. We do not have a proposal right now from the State of Mississippi to undertake any activity or project related to a Toyota plant. We have heard the same thing you have heard, but the State of Mississippi has not provided us with any information. They have not put a request through a disaster plan, which is what they have to do for us to look and concur with whether in fact this is an eligible activity and it meets the other program guidelines.

The CHAIRMAN. If the gentleman would yield, I did have a meeting with Governor Barbour, and I think the Secretary may have indicated to Governor Barbour that it would make the Secretary's life a little easier if the Governor came and talked to us, and if so, I think that was a reasonable—although it would have made all of our lives easier, frankly, if Governor Barbour had talked to our colleague, Bennie Thompson, and I think they finally did that, and I think the Governor was deficient in not having done that before.

But when he spoke to me, he told me that as of now, the Toyota plant that people have talked about, that the funding there is going to come out of some State funds that were freed up by something else, and I think some of this conversation—I don't know what originally was planned there.

But I think some of the conversation that has happened may have influenced the decision for it not to come out of these funds but to come out of the State funds. So as of now, apparently they are talking about State funds for this, although I am not convinced that was their original intention.

Mr. CLAY. Thank you, Mr. Chairman. I yield back.

The CHAIRMAN. The gentleman from California.

Mr. BACA. Thank you very much, Mr. Chairman. Mr. Secretary, San Bernardino and Riverside County, which is my area, has the highest foreclosure rate in the country. As you know, the committee is working on housing stimulus legislation to help stabilize the housing market. I have introduced legislation similar to a bill introduced by Chairman Dobbs in the Senate that establishes a family foreclosure rescue corporation that will buy mortgages from the originators and finance loans based on reduced value of properties, making the payments more manageable for the homeowners, and that's important to all of us to maintain that American dream and stabilize and be in your home.

This proposal is to create a temporary institution to help stop the crisis. The concept has support from the conservative American Enterprise Institute and the liberal Center for American Progress. What are your thoughts? And would this be something you would support?

Secretary JACKSON. Congressman, I really think that if we can get FHA modernization with the high loan limits, at an acceptable loan limit, we can address the issues in San Bernardino the same as Compton, the same as the others. I really believe that if we can reconcile, as the chairman has tried to do with the Senate side, and I hope it comes to fruition this afternoon, we can help.

It was clear when I was in California last week for the announcement of the loan limit at $729,000 that the Realtors were very pleased. And immediately they said that they can resolve many of the problems that you've just talked about if we keep the loan limit at an acceptable level. We don't have to have any other bills. If we just reconcile FHA modernization, we can address many of the issues that you are faced with.

Mr. BACA. It's essential, because most of the people right now are, you know, facing this crisis, the drama of being displaced, being homeless, not having a place to go. And we need to take immediate action, because someone who is in a home will not have a home anymore. And when they get these payments, who knows what's going to happen? I just saw some comedian movie the other day of some foreclosures that were going on, and they're going around robbing banks or whatever just to survive. And I said, you know, we don't want to get into that kind of a crisis where many of our individuals are now looking at how do they stay in their home? How do they maintain their mortgage payments that they have? And we have one solution, and hopefully that's another one.

Another question that I have is that the President's Fiscal Year 2009 budget contains an 18.3 percent cut in the CDBG program. What is the rationale for a cut of this magnitude?

Secretary JACKSON. Well, as I—

Mr. BACA. Question number one.

Secretary JACKSON. As I said to the Congressman a few minutes ago, we believe that there's a proposal before you all to be able to zero in on those cities that are much in need of Community Development Block Grant funds. To date, we're still operating on a formula that was set in 1974. That formula today is not applicable to what is occurring in this country today.

I mean, we have major cities in this country today that are suffering, whether it's Dayton, Ohio, whether it's Canton, whether it's Detroit, where if we could specifically point the money in the direction for 2 or 3 years to bring those cities back, it would be more positively—more positive—

Mr. BACA. Isn't that saying that we need to increase it, not cut it, and redirect the money? I mean, that's what I'm hearing you say at one point. If we need to direct it to those cities that do need it, and if there are cities that don't, then we need to redirect that and put the additional funding that is there to assure that it's there for those cities that need it.

Secretary JACKSON. I don't disagree. I think we have the funding at the level that we have if we can direct it to the cities that are most in need. And only you can do that. Our proposal is—

Mr. BACA. But directing it doesn't mean that we have a cutback. And we have a cutback right now of 18.3 percent, and then there also has been a total—and it comes out to 44.9 percent since the year 2001. It seems like we continue to cut when there's still a need in other cities. I'm not saying that you're wrong and some of the cities don't need it. We need to redirect that. But increase the funding at a time when we're going into a recession, that we should be able to provide for many of the poor, the disadvantaged, or individuals who need this.

Secretary JACKSON. I'm not saying that you are wrong, Congressman. What I am saying—

Mr. BACA. I'm glad you said that. I'm not wrong. Thank you.

Secretary JACKSON. But I am saying that I think that in the budget we have enough money to address the needs if we pass the proposed legislation that we've presented to you. Second of all, I guess I would disagree with you. I don't think we're going into a recession. I think the economy has—

Mr. BACA. We're already in a recession. Okay. I'm sorry. I should have said we're already in a recession, not going into one. All right. Thank you for clarifying that.

Secretary JACKSON. Thank you.

Mr. BACA. The next question that I have—

The CHAIRMAN. Would the gentleman yield for a second? Mr. Secretary, let me see if I understand you. As I understand the budget, it proposes the cut. It doesn't say change the formula and reallocate. Are you saying that if we were to adopt your change in formula and then took the extra money that was saved by that and put it to the other—the remaining cities, that the Administration would approve that?

Secretary JACKSON. No, sir, that's not what I said. I said—

The CHAIRMAN. In other words, what you're proposing is that we cut out the cities you don't think should get it, but that would not be of any benefit to the other cities?

Secretary JACKSON. No. I think what I'm saying is that I think we have enough money allocated in the—

The CHAIRMAN. Right. But the argument that if we cut from them, you could reallocate it, that's not what you're arguing?

Secretary JACKSON. No.

The CHAIRMAN. So that even if we cut out the cities that you think don't need it, that wouldn't bring another penny to the ones that would still be eligible, correct?

Secretary JACKSON. What I'm saying to you—

The CHAIRMAN. No, is that yes or no? That your proposal is to cut out money from the cities that you think don't need it, but not to provide any more than the budget for the ones that are already in it?

Secretary JACKSON. No. I'm saying to you, Mr. Chairman, that we would specifically zero in on those cities that we see are extremely devastated by the downturn and try to—

The CHAIRMAN. I didn't see that in—but you're reducing the amount of money by "X" percent. I assume that was based on the cities that you thought didn't deserve it. So then the question is, that money then is reduced. What's left? Where is there money to give to anybody else? How do you give more money to the other cities?

Secretary JACKSON. We think that if we have the $3 billion that's in the budget we can address this with the recalculation of the formula.

Mr. BACA. But there's a cutback in the budget.

The CHAIRMAN. Yes. You're cutting out the cities that you think don't deserve it, correct?

Mr. BREGON. Mr. Chairman?

The CHAIRMAN. Yes.

Mr. BREGON. The CDBG program distributes the money with a formula.

The CHAIRMAN. No, we know that, sir.

Mr. BREGON. So it's not—

The CHAIRMAN. Excuse me.

Mr. BREGON. —like we are taking—

The CHAIRMAN. Excuse me. Stop. We know that.

Mr. BREGON. So—

The CHAIRMAN. No. Stop.

Mr. BREGON. But the proposed formula—

The CHAIRMAN. Please stop, because you're evading the question, and I don't think people should leave false impressions. The budget request is 18 percent below. Now I assume that cut was based on the calculation that there are cities that didn't deserve it. If you reduce the amount by taking out from the cities that don't deserve it, that doesn't give you any ability to reallocate it. You didn't ask for an ability to reallocate based on need. You asked to cut out the ones that you thought weren't needy, but nothing in there goes to increase the ones that are needy.

Mr. BREGON. Yes. I mean, the formula would give more monies to communities that have a greater need, and it would—

The CHAIRMAN. But you'd cut the overall amount?

Mr. BREGON. Yes.

The CHAIRMAN. How did you decide to cut 18 percent?

Mr. BREGON. We know that the gap—we know that when we look at the new formula, if we look at the—

The CHAIRMAN. No. I asked—excuse me, sir. I asked you questions. I'd like answers.

Mr. BREGON. $400 million.

The CHAIRMAN. How did you arrive at that amount to cut, based on what calculation?

Mr. BREGON. No. The four hundred—

The CHAIRMAN. No. How did you decide to reduce? What calculation led you to decide you could save that money?

Mr. BREGON. Well, that decision was made on a budget—

The CHAIRMAN. Oh, by OMB? Okay. That's the answer.

Mr. BREGON. The formula I'm talking about—

The CHAIRMAN. So let's not—all right. Now we know where it is. OMB told you that's all you can have. Let's not dance around and try and put a dress on OMB's decision. I thank the gentleman.

Mr. BACA. Thank you. Reclaiming my time. Thank you very much for pursuing that, and I think we still have a lot of work because there's a lot of need out there, and hopefully we can reallocate it to those areas.

The next question I have concerns the fact that the homeless numbers are growing in the Central City Lutheran Mission homeless shelters in San Bernardino in my district. Homelessness, as you know, boundaries no country. Thousands of men and women and children live in cars, on streets, in shelters, and in parks. In fact, a new survey shows that a 39 percent increase since the year 2003, the rise of foreclosures will ultimately increase the numbers.

Even though you increased the homeless assistance grant, your proposed cuts in community development grants, public housing, elderly housing, disabled housing, you also eliminate rural housing grants, funding for the LISCs and Enterprise in Section 108 of the CDBG loans. So doesn't the rest of HUD's budget proposal jeopardize visibility of the housing serving over 1 million extremely-low-income families?

Secretary JACKSON. No, Congressman, I don't. I think that we have allocated monies based on the needs and from our assessment. And also, we have seen the reduction in the homeless population of 12 percent for the first time. We can calculate exactly why and what means it takes to get the people off the street. So I think that we have tried to be as fair. The budget is—

Mr. BACA. What does it take to get the people off the streets?

Secretary JACKSON. Well, there are programs. The best example I can give you is the PATH program in Los Angeles, which starts basically by taking the person off the street, cleaning them up, then giving them the psychological and medical help that they need, putting them through a training program, and then looking for a job for many of them. They have been very, very successful, to the tune of about 85 percent over the last 5 years.

And I toured that program with Governor Schwarzenegger, I guess it was about a year-and-a-half ago, maybe 2 years—absolutely awed by the effect that it has had. I think it's being replicated throughout the State of California. In fact, Governor Schwarzenegger just allocated monies to certain parts of the State to strengthen the program.

Mr. BACA. Well, it's to have the shelters, and I also believe that, you know, we should also implement the kind of programs—I know this is done at the local level—is to go around and picking up all of the homeless during a certain period of time, taking them to these shelters and assuring that those shelters are available, cleaning them up, checking them, doing whatever, and then putting them back instead of keeping them out on the streets. These are some of the things that maybe cities and others should implement as well in terms of a curfew to allow that there will be a bus or someone that can go around picking them up. But you have to have the transportation to get them to the shelters as well.

I know that my time has expired. Thank you very much, Mr. Chairman.

The CHAIRMAN. I thank the gentleman. The gentleman from New York.

Mr. MEEKS. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Secretary, we have, as you can see, I think six more members. If you can give us another 30 or 40 minutes, we'll finish up. We appreciate your indulgence.

Mr. MEEKS. It is good to see you, Mr. Secretary.

Secretary JACKSON. It is good to see you.

Mr. MEEKS. I have concerns about what's happening with FHIP, with the budget in FHIP, the Federal Housing Initiatives Program, because it seems to me what is happening there is a significant cut at the time when we least can afford it. From what I understand, the proposed budget is listed at $26 million, and HUD has called for $6 million of that funding level for a study on housing discrimination, leaving an automatic programmatic FHIP funding at just $20 million, which is less than the President's budget for FHIP in Fiscal Year 2008, which was $21.8 million.

So how can the Administration propose, and how, you know, how are you dealing with this slashed funding for a program at HUD aimed at educating consumers? With the crisis that we're currently having right now with subprime mortgages and subprime lending, here's a program directly aimed at consumers and yet—so that we can avoid this—but yet it looks like we're having the slashing of the FHIP program. Can you tell me what's happening there? Do you know?

Secretary JACKSON. Congressman, I'll let Ms. Kendrick, who is the Assistant Secretary for Fair Housing and Equal Opportunity address that.

Ms. KENDRICK. Good afternoon. This is the Fair Housing Initiatives Program. Is that the program?

Mr. MEEKS. Yes.

Ms. KENDRICK. The Fair Housing Initiatives Program, I talked a little bit about this with Congressman Watt. And one of the things that we're doing in this program to address, because we do have a budget and what we're trying to do is work within that budget, because that's the budget that we've been given. And so what we're doing with that budget is we are funding our fair housing groups for multiple years.

We're also using some of the money, the $1 million, to have a national campaign to address some of the issues you're talking about right now. For example, this year in Fiscal Year 2008, we have a $1 million media campaign to address predatory lending, fair lending issues across the Nation. So what we're doing is we're using our money more wisely so that we can address these issues across the Nation instead of just developing these issues with the expertise within one group.

Mr. MEEKS. But what I'm finding is that a quarter of the country's fair housing centers are closing as a result of the lack of funding, where you reach out to people, where the people are. The places where the people need the help, you know, those places are going away because of no money. They're shutting down in our communities.

Ms. KENDRICK. Well, actually, we have 104 organizations that we funded last year, and we were able to keep all of those groups except for about 13 of those groups. But what we did, because we could not fund those 13 groups, we actually funded another 39 groups for 3 years, so we don't have this issue with those groups for next year, so depending on appropriations, we will be able to fund those 39 groups for another year and then, depending on appropriations again, fund those exact same groups for another year.

So we will have those groups working 3 years so they are working on the fair housing issues across the Nation instead of coming to HUD and writing applications for each of those years. So we think that we're using our money a little bit more smartly.

Mr. MEEKS. So you're telling me that the centers across the Nation, the information that I receive, they're not going to be closed? The communities that I'm starting to hear from that are saying that there are centers where they were going to for information, that they're going away, you're telling me that those are—they are not going away? They're still going to be there?

Ms. KENDRICK. No. Some of those centers will go away, and I'm sorry that they will be going away, because they provide important functions in this Nation. But we will now have groups who will have—they will have 3-year funding so we won't have to worry about those 39 organizations going away next year, nor will we have to worry about them going away the following year.

Secretary JACKSON. See, one of the problems, Congressman, and I think you've asked a very critical question, is continuity. We are trying to create continuity, to make sure that there is some constancy in this process, where before they were funded for 1 year and they might not have been funded the very next year, and they didn't render the services that they could have performed had we been doing it on a—

Mr. MEEKS. But that's why I'm concerned about the cutting, because then you could keep those that we have and still focus on the continuity if we weren't having the cutbacks that we're having, which is in fact a decrease in this budget, in this very special effort. If we would keep it funded at least at the level that it was and then we can talk about the continuity so we can move on. But if you're cutting funds, and you're cutting back to have less, then it seems to me that it seems as though it is not a priority of HUD then to move.

And I understood, I heard your line of questioning before, so—but, you know, just to me, given the climate in which we currently are in, if ever there's a time to try to educate a consumer about fair housing, it is now.

Ms. KENDRICK. And I think, Congressman, that that's what we want to do. We want to use our money smarter. We don't want to have the 39 organizations that we funded for 3 years, we don't want them to close next year. We don't want them to close the year after. So, therefore, these groups will be having a constant presence in those communities.

We also have our fair housing staff that works in all 50 States that are also addressing fair housing issues. In addition, we have opened a fair lending division to address particularly the issues on discriminatory lending and predatory lending. So we have a whole unit at HUD right now that's working on these issues, handling high profile cases and cases that will have a nationwide impact, not just impacts in one little community.

Mr. MEEKS. I'm out of time.

Secretary JACKSON. And also, Congressman, which is very important, we have allocated for the 2009 budget $65 million for housing counseling, and they do the same thing. We have 2,300 counseling centers around the country. And we've also allocated to NeighborWorks $180 million, who also does very much the same thing. So we're covering the Nation. There's just no question about it, and it's very important.

Mr. MEEKS. So you're—and I'm going to leave it alone, but you're telling me you're covering the Nation with less money?

Secretary JACKSON. No. I just said that—

Mr. MEEKS. Well, we're having cutbacks, and we have to eliminate now so that we can have continuity, so we have to have less money.

Secretary JACKSON. No, Congressman. I just said that we have gone from $50 million in Housing Counseling, which does the same thing in many cases that fair housing does, to $65 million. We've gone from $120 million to NeighborWorks to $180 million. So we're addressing it. You might see it over here, but we're addressing it over here, too.

Mr. MEEKS. Thank you.

The CHAIRMAN. The gentleman from Massachusetts.

Mr. LYNCH. Thank you, Mr. Chairman. Thank you, Mr. Secretary, for appearing before us today. I want to go back—I have a similar situation in my district as Mr. Baca was describing, although perhaps not to the degree. But I just had a foreclosure prevention workshop. I put it together in my district at a local high school, and we brought in some mortgage experts, some banks. I had 400 people show up. I didn't do a whole lot of outreach, but we had 400 people show up, and it indicated to me the size of the problem we have.

A lot of the people who came to that foreclosure prevention workshop in my district were seniors, and a lot of them were veterans. But because of the gaps in the Administration's program, this HOPE NOW program and some others, a lot of these folks weren't helped, so they have nowhere to turn, and they are getting thrown out of their homes. A lot of them are seniors. Like I said, a lot of them are veterans who served this country very well, very proudly. And now I see in your budget, the President's budget, that we're going to cut out $195 million out of Section 202 housing, senior housing. And I just think that it's disgraceful, quite frankly.

I just—here we have a tidal wave of need. These folks have been in their own homes. We're having an unprecedented collapse in the housing industry. These folks are being thrown out of their homes. It's a very emotional time for all these families, and the very people they've come to ask for help, the people who should be here, are people in government. This is why government exists, to help folks out when they don't have any power and no leverage.

These folks, some of them were living in their houses for 15 or 20 years, and now they're basically facing the street. And here we are, the President has a policy to basically, you know, pull the net out from under them. We're going to cut in this budget, we're going to cut $195 million out of a senior housing program that's the core of our senior housing program when you have a lot of people being forced out of their homes and who otherwise would be relying on this for the first time in their lives?

And also I see this veterans housing piece. And, you know, I just came back from my 7th visit to Iraq and Afghanistan, and we're seeing our folks coming back there who deserve our help. A lot of them are on their 3rd, 4th, or 5th tour, so they are completely separated from their prior employment. They're going to need some help as well. We have a lot of folks who are World War II veterans, or veterans of Korea, Vietnam, or the Gulf War, who need this stuff as well. And we're supposed to be there and to provide some type of assistance. And I see cuts. I see cuts, and I see total inadequacy on the programs that are being maintained.

And, sir, I just have to ask you, what were you thinking? What is the President thinking in putting this agenda out, given the facts that we have right now, given the reality that our people, our constituents, the people that you and I serve, given what they're facing? How can you come up with a straight face and present this budget to the United States Congress?

Secretary JACKSON. Congressman, I have to respectfully disagree with you. We have 210 units—210 projects in the pipeline right now for seniors, and I think we have about 215 in the pipeline in

Section 811 for veterans. Secondly, we have allocated $75 million, which will create 10,000 more vouchers for veterans as they come home. And we expect to continue to do that, because that was a commitment that we made to Veterans Affairs. We have not increased the number of vouchers that veterans get since 1993. For the first time in our budget, we have that. So we are addressing this. We have a number of Section 811/202 projects that are going on today that will address the need.

Lastly, let me say this to you about anybody within your district who needs help at this point in time, we have raised the loan limit to $729,000. FHA is standing, willing, and ready to work with anyone. I've traveled around this country, and I agree with you. I just came out of California where there were 1,000 people sitting there. And when I told them that the loan limit had been raised in California, they stood up, because probably 800 of those 1,000 people could probably make a loan there with FHA, and FHA secure, where before we passed the stimulus package. That was not the case. We could not deal with the market.

So I am extremely sympathetic, but I think that the budget addresses that and I can say it with a straight face that we're leveraging the money with developers for the Sections 202 and 811. If I had thought for one moment, because I am extremely partial toward senior citizens and veterans, so I would not in my mind do anything to hamper their abilities to come back into this country and have a decent, safe place to live after sacrificing so much for us.

Mr. LYNCH. Well, I have to tell you, that's not what I see in my district. I see on average at my senior, my Section 202 housing developments, senior housing, I probably see between 100 and 200 people on the waiting list, and those folks on that waiting list aren't getting any younger. And every once in a while, a unit might open up.

Secretary JACKSON. Well—

Mr. LYNCH. Let me just finish. And I just finished a tour with my veterans agents. In Massachusetts, every town has a veterans agent to watch out for them. And we're scrambling right now. We're putting folks in nursing homes and basically warehousing them just until we can find a suitable home for a lot of our veterans, and they, quite frankly, they deserve better than that. And I just don't see anything in this budget that offers them hope in the near term. And you might have stuff in the pipeline, but my folks can't live in a pipeline. They're looking for housing right now. And it's a crisis situation.

And by the way, you know, I probably have in New England, probably $3- to $5 billion worth of variable loans that are going to reset. Thank God right now the rates are pretty low, but some of these mortgages, the spreads are pretty big on them, and it's going to push more people into foreclosure. So, you know, this is not—this wave is just beginning to hit, and I'm very, very troubled by the trend, and I'm also troubled by the information in this budget.

Mr. Chairman, I know my time has expired.

The CHAIRMAN. The gentleman from Georgia.

Mr. SCOTT. Thank you very much, Mr. Chairman, and Mr. Secretary, welcome to the committee.

Secretary JACKSON. Thank you.

Mr. SCOTT. I appreciate your service. Let me talk about a couple of things here. I want to talk about Section 8. I want to talk about a major concern of my constituents. I've just completed a series of town hall meetings in my district, you're familiar with my district. You've helped me on a number of occasions there, which I appreciate.

But these complaints fall into two areas. The first area is that there's a lack of HUD inspections and compliance with inspection and code enforcement with Section 8 housing that is in my area.

The other issue is that municipalities are circumventing the HUD concentration rules. In other words, residents in my district are alleging that certain local housing authorities are issuing Section 8 vouchers to eligible individuals but then are steering those voucher holders to other nearby communities. For example, the Atlanta Housing Authority would issue the voucher, but the individual would be steered into Clayton County or into South Fulton County.

This presents a major issue. So we have two of them here, the steering of those into an area, and then when you get them in there, the folks are not keeping up their property. They're not forced to do it, and I have a serious problem. So I want to address that, and I need your help, somebody on your staff to assign to work with my staff so we can make sure this is right.

Because I asked the question in the meeting, the same question I think you're going to ask me in a minute when you get to respond. Are you sure these are Section 8 housing? Or are they just low-income renters from absentee landowners? And they say unequivocally that they're Section 8. We've had a few meetings in the office and I came to that conclusion myself.

Then the next question, is it a myth or is it a reality that as a result of all the tearing down of all of the housing projects inside the City of Atlanta that these folks are being dumped into nearby Clayton County and South Fulton County? And then of course the question of whether or not with this unfortunate mounting number of foreclosures, are private investors buying these up—houses for cheap, as they're doing, and then renting them out to low-income buyers?

Regardless of what the complications of the matter happen to be, my constituents have a problem, and they are blaming the Federal Agency—HUD. We have to find out where your Section 8 housing is, why and if they're being targeted out of the City of Atlanta into the suburban areas, and how we get a plan developed to go forward.

Secondly, we need to find who is the front line entity for code enforcement. Because it is a terrible shame in my suburban district where people have invested their hard-earned money years back, come into a community, paid $300-, $400-, or $500,000 for homes, and because of no fault of their own, because Atlanta's tearing down their housing projects, folks have to go someplace, and they're being steered and dumped into an area, and the property not being kept up.

So we have a major, major dilemma that I'd like for you to address on each of those three points if we could, unless you and I get a plan together where we can go and make sure that these houses are being kept up. Could you respond?

Secretary JACKSON. Yes. Congressman, I agree with you in the sense that I can't tell you specifically about your district. But what you've just described is similar to what was described to me by Commissioner Jack Johnson in Prince Georges County, Maryland, with the onset of many of the public housing developments being demolished here in the District, and people being shipped there.

If that is the case, we will work with you wholeheartedly, because I don't believe that people should go into communities where people have worked hard—whether it be police officers, nurses, teachers, principals—to acquire their home, and then see people come in and not take care of the property. So I will tell you that I will have our person in Atlanta, who is the Acting Regional Director, work with you directly.

And I have no compunction at all coming to deal with the Atlanta Housing Authority, because if they are doing what you allege they're doing, that is the wrong thing. I think they should make every effort before they send a person out into one of these communities that they have all of the proper training. One of the things that occurred when I was running the Dallas Housing Authority is I would not send people out there without having a 3- or 4-time counseling session with them for them to understand that they're going into a community that is stabilized, and they should understand their responsibility going into that community.

Second of all, I think it's very important that you don't send people into the community who are going to sit there all day long and watch television. You hope that at least people will have a productive job and do something that will be positive and add something to the community. So you will get a great deal of sympathy from me on this process, because I think it's wrong to send people into communities if they're going to destroy the community.

Mr. SCOTT. During my 2-week recess coming up, I want to set up a meeting in my district office to address this, so who is that person that you will assign to meet with us so we can really go at this problem?

Secretary JACKSON. She will be the acting region—Pat, what is it? Pat Hoban Moore.

Mr. SCOTT. Pat?

Secretary JACKSON. Hoban, H-o-b-a-n Moore. And I will call her and tell her that she should get in touch with you.

Mr. SCOTT. Okay. We'll follow up and I'll have my staff get in touch and we'll set a meeting up. Thank you, sir.

The CHAIRMAN. The gentleman from Texas.

Mr. GREEN. Thank you, Mr. Chairman. Thank you for hosting the hearing, and thank you, Mr. Secretary, for being here. I want to thank Mr. Montgomery, Mr. Secretary, in your presence. He has been very helpful, and I am confident that you have in him someone who has your best interests at heart.

Mr. Secretary, I want to thank you for coming to Houston and announcing your initiative to fight discrimination in housing as it related to the Katrina evacuees.

Secretary JACKSON. Right.

Mr. GREEN. I thought that was a good thing to do, and I believe that it has been helpful, which is a good segue into the FHIP program, the Fair Housing Initiative Program, that is being cut, $26 million proposed, $6 million of that will be cut from the program. Actually, I guess it's still a part of the budget, but it goes to a study, which means that in the final analysis, as it relates to FHIP, in my opinion, there is a cut.

I know that the Assistant Secretary spoke well as she talked of how we can fund 39 programs for 36 months, 3 years, as opposed to 52 programs for 36 months, which would be 3 years. And I guess that's where we have a difference in thought, because I'm hopeful that we can fund all of the programs, including the Greater Houston Fair Housing Center, which is not receiving any funding this year, would like to see that program get some funding.

I think the $52 million funding level is one that would allow us to do the very same thing that the Assistant Secretary has referenced, but to do it with all of the programs, and that way make sure that we get all of the programs doing the thing that they do best, which is helping us with housing concerns. And especially the Fair Housing Initiative Program, which allows us to do testing. Testing is by far the best way for us to impact discrimination in housing.

Secretary JACKSON. That's correct.

Mr. GREEN. There really is nothing else that comes close to testing. And we need to pour more of our money into testing because we get the empirical evidence to support litigation when necessary, negotiation most of the time, and a means by which we can resolve problems a good deal of the time.

My understanding is that we had about 27,000 housing discrimination complaints, of which about 18,000 were resolved. And the resolutions, a good many of them, came from these centers that are funded. So my appeal to you is this: Let's try to fund all of them as opposed to fund some of them. It's difficult to select one child over another. It's difficult to select one of these centers over another. Let's try to fund all of them. And because I know where we will end up, I have one question. Here is the question. If we fund—if we fund to the $52 million level in Congress, will you be sending the money back?

Secretary JACKSON. No. I'm—let me say this to you. One thing I have learned from my encounter with the Financial Services Committee is that if you allocate monies and say you want it spent, I will spend the money. I mean, that's—see, I understand—I know the chairman once got upset with me when I told him that I understand Article I, Section 9, that says Congress is the authorizer and the appropriator. So I understand that when you authorize and appropriate, you want us to do what you said to do.

Mr. GREEN. Well, I'm pleased to hear you say that, and I understand that OMB has an impact on the process. But I'm hopeful that you will continue to encourage an expansion, and if we can continue to fund, maybe at some point that we'll connect and get this done. But it is important that we fund these programs.

Secretary JACKSON. Thank you.

Mr. GREEN. It is. And because time is of the essence, I will yield back the balance of my time. Thank you, Mr. Chairman.

The CHAIRMAN. The gentleman from Missouri.

Mr. CLEAVER. Thank you, Mr. Chairman. Thank you for being here, Mr. Secretary.

Secretary JACKSON. Thank you.

Mr. CLEAVER. If we can go back a little to the Governor Barbour letter, as a mayor, you would probably expect me to go here, and I won't disappoint you. I have some concern that the CDBG funds that Governor Barbour used and reprogrammed, which you did not have the authority to direct or redirect.

When money goes to the State, certainly in Missouri, the Class B and C cities are the ones who then competitively apply for those dollars through the State as opposed to HUD. And the first class cities in our State—St. Louis, Kansas City, Springfield—would get the direct CDBG grant. And then there are requirements to the CDBG grants, and one, and perhaps the most significant and the most irritating, is the requirement for a public hearing.

And my concern is that when these dollars went directly to Governor Barbour, and then he reprogrammed it to some kind of port restoration program, that there was no public hearing, which in fact violates the rules of Community Development Block Grant. And so, I mean, if there was a public hearing, just so I can tell my former colleagues, many of whom are in town now for the winter meeting, that the HUD guidelines were in fact followed.

Secretary JACKSON. Let me say this to you, then I'll let Nelson Bregon go in depth. From my understanding with the legislation, no public meeting was required. I mean, we were told what to do in the legislation, and it was not a matter, Congressman, of whether we may. They said we shall. And I think if you want to further address—

Mr. BREGON. Congressman, you are correct. There are citizens participation requirements in the CDBG program, and those also apply to the supplemental appropriation which the State of Mississippi receives. What the Secretary has the authority under the waiver authority of the supplemental appropriation was to perhaps be more flexible on the public hearing.

There was a public hearing held in Mississippi, and usually what the State does is they give a 30-day notice to the citizens advertising a public hearing.

Mr. CLEAVER. Okay.

Mr. BREGON. In this case, that 30-day notice did not occur, but they did hold a public hearing, and we have a certification to that effect.

Mr. CLEAVER. Yes. I went into Mississippi. I asked that very question. No one could answer it. People did say they were given some kind of a notice but that it was a very short notice, and that people in Mississippi who hold public office said they knew nothing about an actual hearing that took place. Am I correct?

Mr. BREGON. The State has told us that they have had public hearings. We can definitely look into it. We can ask them for copies of the transcripts of those hearings and make those available to you.

Mr. CLEAVER. So individuals actually came to the public hearing?

Mr. BREGON. I don't know whether individuals actually went to the public hearings, but they did advertise a public hearing. They held a public hearing. Many times, cities have public hearings and nobody shows up. So I'm not able to tell you—

Mr. CLEAVER. I have never—

Mr. BREGON. And you know as a former mayor—

Mr. CLEAVER. In 8 years, you can't get in city hall when there's a CDBG public hearing. And so I'm stunned that in the aftermath of the worst storm in U.S. history, that same thing didn't happen if in fact people were notified.

My concern is that $600 million was sent into Mississippi for one purpose. It ended up being used for another purpose. And the other issue is in the letter, the language says the additional $100 million brings the State of Mississippi's total financial obligation—it's irrelevant. I guess the concern is, the word "additional." It says, "This additional $100 million." My understanding is that this additional $100 million came out of Phase 2 of the Homeowners Assistance Program.

Secretary JACKSON. That's correct.

Mr. CLEAVER. Which means that it's not $100 million additionally.

Secretary JACKSON. Yes, it is, in the sense that what we were trying to do, and I think I explained it to the chairman, we were trying to zero in to make sure that we have enough money to make sure that low- and moderate-income and working families have an opportunity to rebuild, and even rentals, the people who own rental housing, have the ability to rebuild.

I will say this to you, Congressman, as I said to the chairman. I'm not disagreeing with you. I just—I did not, as I told the Congressman, I don't have the authority.

Mr. CLEAVER. Yes.

Secretary JACKSON. If I had the authority or the flexibility, I probably would have said no. But I didn't have the authority or the flexibility based on what your General Counsel's office told us.

Mr. CLEAVER. Well, we need to change that, Mr. Secretary. I mean, you need that responsibility, and we need to change that. And also, I'm still not real sure, and I don't want to take up the time now, about the public hearing. I mean, something needs to be in your discretion—maybe it shouldn't be a discretion there, that a public hearing has to be held and they're untidy. I mean, you know how they go. I mean, I don't know a mayor in the country unless he's schizophrenic who is happy for a public hearing, but that's the way it happens.

Secretary JACKSON. That's true.

Mr. CLEAVER. Thank you, Mr. Chairman.

The CHAIRMAN. I don't think you have to tell the Secretary about how sometimes people wish they didn't have to come to public hearings. I think he knows that.

[Laughter]

The CHAIRMAN. But let me just take 1 minute before I go to the gentleman from Minnesota. We had a request from the American Civil Liberties Union to submit a letter to the record in which they express their continuing concern that women who are the victims of domestic violence in public housing find themselves evicted under an, I think, inappropriate interpretation of the one strike rule. And I would ask you to take a look at that letter.

Secretary JACKSON. I sure will.

The CHAIRMAN. And secondly, the National Association of Housing and Redevelopment Officials has submitted a letter which I ask unanimous consent to put in the record as well, which I think summarizes the views of many of us, at least on this side. NAHRO believes that the Administration's 2009 budget request, if adopted, would continue a pattern of large-scale disinvestment in our Nation's irreplaceable inventory of affordable housing and would undermine efforts to sustain vibrant communities.

Let me just emphasize, because I know the gentleman from Missouri's questions are absolutely right, part of the problem here, Mr. Secretary, and I realize we didn't draft this legislation. The legislation was drafted in a prior Congress, and if it was up to us, and in the future, it will be drafted more clearly to give you that discretion, but part of the problem is it does appear that they didn't actually formally apply for a waiver, that there was a procedural problem there, and if the had actually been made to apply for the waiver rather than have it granted without formal application, the problems that the gentleman from Missouri talked about could have been addressed. So even with the little discretion that you had, more could have been done to make them go through the steps, and that would have at least focused some attention. And there we are.

The gentleman from Minnesota.

Mr. ELLISON. Mr. Secretary, you were talking a little while ago about maintaining the neighborhoods and making sure they continue to look good and trying to avoid things that might promote people to misuse property, so I kind want to get your thinking around the zero funding for HOPE VI. Could you talk about how zeroing out HOPE VI will impact our public housing infrastructure?

Secretary JACKSON. I think, again Congressman, I think that's a fair question, and let me tell you my concern is right now we still have outstanding $1.4 billion in HOPE VI monies that has been outstanding for more than probably 8 to 10 years, some of it has been. What I have suggested is to recapture that money and allocate it out to those cities who have performed very well, and you have a city that has performed very well. So I would have no problems at all making sure that the money is used wisely.

But we cannot continue to fund a program that has, out of the 260 or so that we've funded, only 75 have been completed since the beginning of the program in the early 1990's. That's my only concern. And I will tell you that I was part of the Committee that created—the Committee for Severely Distressed Public Housing—that created the HOPE VI program. And, in fact, I've said it on a number of occasions, we were in Chicago one night when we came up with that name, at least I did, Housing Opportunity for People Everywhere. It's what it stands for. So I believe in the program and I don't want anyone to think that I don't believe in the HOPE VI program. Where it has worked, it has worked well. You have two cities—Minneapolis and St. Paul—where it has worked well. But if we could get people to spend the money, I'd be the first to go.

Mr. ELLISON. If I may, Mr. Secretary, thank you for that explanation. I want you to know that I just talked with my folks in Minneapolis and we're looking at $223 million in capital needs that will become severely distressed if not addressed soon and the Glendale building, which I don't expect you to know, but you might, near Prospect Park, which is a Minneapolis area, there are 182 units on the verge of being dilapidated and eligible for HOPE VI. So I guess my thing is, I guess my question is, is withholding and zeroing out the money the only way to make those other jurisdictions spend the money. Do you understand my question? So if the problem is that they won't spend it, don't you have any carrots and sticks to make them do that rather than defund the program?

Secretary JACKSON. I really wish I had. If I had it, I'd use it today or yesterday, because I believe that where this program has worked well, there are still great needs. And I wouldn't doubt when you said that you have—I know a couple of your HOPE VI—I wouldn't doubt—I know the executive director. He's a very fine person. They'd use the money. But I don't have the ability to recapture the money, to redistribute the money. The money sits there, and in many cases it's been, the administrative fees have been used up and they can't bill.

Mr. ELLISON. Yes, but we still have the zero when it comes to the budget number and I just think that it's a drastic way to solve a problem of not making some of these other jurisdictions get after spending that money, you know what I mean? I think that what ends up happening is you punish the good doers and you don't really punish the bad doers because they're really not using the money anyway.

Secretary JACKSON. Now that, I won't disagree with you. Sometimes I have to sit and think about that situation and there are so many cities that I think could really—

Mr. ELLISON. What if you had some other tools, like you could—what if you had, for example, just go to those jurisdictions and say, you're not using this money. You might have it withdrawn if you don't use it rather than having—because when you talk about a zero dollar figure, that impacts everybody.

Secretary JACKSON. Well, I will tell you we zero it out each year but you all put the money back in each year.

Mr. ELLISON. I know, but when you zero it out, I mean, what does that say? That makes a statement. I mean, a budget is a moral document in my opinion. It states what we care about as a society; what we think is important and also what we think is not important.

Secretary JACKSON. Well, I would disagree with you. I'm with you. I think it's very important but I have to use judgment and that's my judgment. I think that's where we disagree. We're not going to disagree about the importance of what the program produces. I can't argue that with you.

Mr. ELLISON. Well, Mr. Secretary, I would respectfully just ask if you could look at other ways of making people comply with the money; use the money they got rather than zeroing it out. Let me just ask another question if I have time. People in my area are concerned about rescinded funds being recycled into existing Section 8 contracts. I have some background I could share with you, but do you know what I'm talking about right now? Let me give you a little background because I didn't want to read this whole long paragraph if you already knew what I was talking about.

Secretary JACKSON. Is it the reserve fund?

Mr. ELLISON. Yes, I think it is the reserve fund. There have been a series of letters going back and forth between the public housing authorities and my district and Corva Corby and Tim Thompson and they're concerned locally about this concern because they're concerned about how HUD applies recision measures to funds, which are covered by section 8(b)(B). Does that give you any more clarification?

Mr. OZDINEC. Good afternoon, Mr. Congressman.

Mr. ELLISON. Good afternoon, sir.

Mr. OZDINEC. I'm Milan Ozdinec. I'm the Director of the Office of Public Housing and Voucher Programs at HUD.

Mr. ELLISON. Okay. Do you understand?

Mr. OZDINEC. Yes, I believe you are talking about the net restricted assets.

Mr. ELLISON. Yes.

Mr. OZDINEC. Currently there is about $2.2 billion that sits in Housing Authority's bank accounts as it relates to Section 8. These are monies that Congress has previously appropriated and housing authorities retain those funds to use for HAP payments and for administrative fees. Last year the Congress in the appropriations process used $723 million as an offset for housing authorities. For housing authorities that are above their cap, and the Secretary and Congresswoman Maloney talked a little earlier about the cap and how the budget process works as it relates to how the Congress appropriates the money. Well, in 2008, the Congress instructed us to use $723 million in an offset and take that money away, or offset that money with housing authorities that have net restricted assets that are called unusable. These are housing authorities that have leased up to their authorized amount so by law they cannot exceed that amount, but yet still have money in their bank accounts. So the instruction from the appropriations was to offset that money and force the housing authorities to use that money as opposed to new appropriations.

The CHAIRMAN. Let me ask, was that part of what we did to hold some people harmless when we did the change in the funding formula?

Mr. OZDINEC. Mr. Chairman, I'm not sure about holding people harmless. Of the $2.2—

The CHAIRMAN. I mean, the authorities. There was some concern about the changes in the formula that we fought about several times and I thought there was some effort to use some of those funds so that nobody lost out as we went from one year to the next.

Mr. OZDINEC. Indeed that's true, because these funds are unusable because—

The CHAIRMAN. I mean, Dade County, for example, I think was our biggest issue about that.

Mr. OZDINEC. Right, we've proposed in the last three budgets, I believe, to remove the caps, the authorized caps so that housing authorities could use that net restricted asset to indeed issue more vouchers; to go above what they were authorized. If housing authorities were good stewards with the money, if they stabilized their payment standards, improved their utility allowance, set a minimum rent at $10 or $20, they could indeed squeeze efficiencies out of their program and we wanted them by—

The CHAIRMAN. Let me say to the gentleman it is a serious issue but it's one that we need to share with our—the appropriators have more to say about it than we do, and we will talk to them about it.

Mr. OZDINEC. And we would love to have that conversation, Mr. Chairman.

The CHAIRMAN. I thank you, Mr. Secretary. And we do all want to repeat that the chairwoman is very concerned about the figures on New Orleans—whether or not people want to return. We would hope to get those before the end of the week and then we will get back to you.

[Whereupon, at 12:38 p.m., the hearing was adjourned.]

# A P P E N D I X

March 11, 2008

U.S. Congresswoman
Ginny Brown-Waite
*Representing Citrus, Hernando, Lake, Levy, Marion, Pasco, Polk, and Sumter Counties*

Committee on Financial Services
FY 09 HUD Budget
March 11, 2008
Statement for the Record

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Thank you Mr. Chairman for providing us the opportunity to discuss the Department of Housing and Urban Development's FY 09 Budget Priorities today.

And thank you to Secretary Jackson for being here.

I appreciate the steps the President's Budget takes in reducing the deficit and reigning in runaway spending. However, once again I have grave concerns over how it accomplishes that goal.

Members may be familiar with a report by the Commission of Affordable Housing and Health Facility Needs for Seniors in the 21st Century. My predecessors on this committee directed the commission to provide this report called *The Quiet Crisis in America*, which highlighted the growing housing needs of seniors in America.

According to the Commission, in 2002 seniors made up roughly 12.4% of the American population. By 2020, in just over a decade, they will make up 20% of the population. As the number of seniors continues to grow in our nation, I question why our President would cut programs established to help provide them affordable housing.

Section 202 under HUD is the only affordable housing program that is dedicated to senior housing. In 2002, when the report was presented to the Committee on Financial Services, there were nearly 6 times as many seniors with unmet housing needs as those currently served by rent-assistance housing.

Yet once again, the President's budget recommends a cut, this year it is 27%, in Section 202 funding. And I hope once again Congress blocks this cut and restores funding to ensure that America's seniors spend their golden years with dignity and one of the most basic human needs – a roof over their head.

You can be sure I will do everything in my power to make that happen.

Thank you again Mr. Chairman and I look forward to hearing from the Secretary today.

**WRITTEN STATEMENT OF**

**SECRETARY ALPHONSO JACKSON**

**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**HEARING ON**

**HUD'S FISCAL YEAR 2009 BUDGET**

**BEFORE THE**

**HOUSE COMMITTEE ON FINANCIAL SERVICES**

**U.S. HOUSE OF REPRESENTATIVES**

**MARCH 11, 2008**

**Introduction**
Thank you, Chairman Frank, Ranking Member Bachus, and the members of the committee for this opportunity to appear today.

Mr. Chairman, the budget for the Department of Housing and Urban Development (HUD) represents an investment in the American people by the American people. This investment is measured in more than dollars. It is measured in the lives we touch, whether in creating and protecting sustainable homeownership, preserving affordable rental housing, helping the homeless, or revitalizing our cities.

The budget reflects America's compassion and commitment. The President's budget will ensure housing assistance for those in need, preserve and promote homeownership by addressing subprime mortgages, strengthen communities by sustaining homeownership gains, make further progress towards ending chronic homelessness, and continue the trend of improving HUD's management and performance.

Almost every American is touched by our programs, directly or indirectly. And there are few things more personal or cherished as the house or apartment where we live, watch our children grow up, and where we grow old. Our budget is about promoting new homeownership and making the American dream possible. The budget is about protecting families already in homes. It is about expanding affordable rental housing. It extends funding and services to those in need, including the disabled, veterans, the homeless, people with HIV/AIDS, and elderly and disabled people affected by hurricanes Katrina and Rita. Further, it continues to support and encourage community growth and revitalization.

I believe we have a good budget. It is fiscally sound, supports our mission, and fits in well with the overall vision for the President's entire fiscal year request. My department would receive an historic investment, $38.5 billion. This is an increase of more than $3 billion, or nine percent, over last year's proposal. The budget is almost $1 billion more than our current budget authority.

Let me break this down in more detail.

**Ensuring Housing Assistance**
I am pleased that the budget strongly ensures housing assistance for those in need. As in the past, Mr. Chairman, the largest part of our budget is for affordable rental housing. Combined, this budget seeks more than $29 billion for our rental assistance programs which we expect will help more than 4.8 million households. We are mindful of the continued need for more affordable rental housing, especially as some low-and-middle-income workers find themselves priced out of the real estate market in many cities. We need to maintain the units currently available and this budget will help us do that.

The budget increases primary housing programs by providing $7 billion to renew all project-based rental contracts and $400 million for an advance appropriation to bridge renewal funding into 2010. This will help provide housing assistance for nearly 1.3 million low-income tenants.

We also increase housing choice vouchers, reaching over two million low-income families, while removing the cap on the number of housing units that Public Housing Authorities may assist.

The budget also supports public housing operations with a request for $4.3 billion, the highest proposed funding level in history. This will cover the necessary operating expenses for 1.2 million public housing units.

The proposed budget also seeks $300 million for persons living with HIV/AIDS. This funding would provide housing and care for 70,500 people.

The proposed budget also contains $3 billion in Community Development Block Grant (CDBG) funding for states and local governments. We have once again asked Congress to revise the outdated funding formula for this program. With appropriate revisions, we can distribute resources more efficiently and fairly, making this funding more effective and helpful.

Mr. Chairman, let me also add some comments about the recovery effort from Hurricanes Katrina, Rita, and Wilma. The disaster was unprecedented. Recovery will take many years. We have been deeply involved in these recovery efforts.

You should know that HUD has funds available of nearly $20 billion throughout the Gulf Coast region to assist in recovery. States have spent approximately $8.5 billion to date. So far, more than 110,000 homeowners in Louisiana and Mississippi have received financial assistance from HUD. We know that there is more to do – much more. We have learned much and worked through some enormous difficulties. But progress is noticeable.

The American people should be proud of their investment and their compassion. If anyone wants to see America's heart, they should go to the Gulf Coast, where so many people have given generously of their time, their love, their patience, and their courage.

The Gulf Coast is coming back, and one important reason is a fundamentally sound approach to recovery.

When Hurricanes Katrina, Rita, and Wilma devastated the Gulf Coast, many of our most vulnerable citizens lost the only homes they had known. We recognized last year that some of those families affected by the storm needed additional time to recover, which is why the Administration transferred the responsibility for housing these families from Federal Emergency Management Agency (FEMA) to HUD under the Disaster Housing Assistance Program (DHAP) and extended government housing assistance another 18 months to 30,000 families.

The President is also requesting $39 million to ensure that the elderly and disabled families displaced by the 2005 Gulf Coast Hurricanes remain protected at the conclusion of DHAP. These Disaster Displacement Assistance vouchers will provide permanent affordable housing to eligible elderly and disabled families, while the remaining storm victims who are not on fixed incomes continue on the path to self-sufficiency.

The Department will administer these vouchers as part of the Section 8 Housing Choice Voucher Program. We will make rental assistance payments on behalf of these families, whether they have relocated or returned home.

**Preserving and Promoting Homeownership**
Promoting homeownership remains one of the central goals of this Administration. We have to get the housing market back on track. We know that homeownership is good for families, the community, the nation, and the world. Homeownership equals empowerment, wealth creation, independence, and fulfillment of the American Dream. It gives the family a stake in the community. Homeownership is a source of pride. It is particularly important for America's minority communities, which historically have lower rates of homeownership.

Clearly, the housing crisis is a powerful challenge. After the unprecedented, historic gains in homeownership between the start of the decade and 2005, there has been a downward trend in homeownership. The troubling rates of foreclosure and other housing indices reveal more than a statistical drop or figurative decline. They tell us of families losing their homes, of people losing their investments, and of dreams stolen away.

The causes are many. But the subprime situation is often the reason. But not all subprime loans are bad. Subprime loans broadened the availability of credit and led to housing investment for those who previously had less than perfect credit. And the majority of subprime loans are still being paid on time. About 20 percent of subprime loans are problematic. This means that many families cannot afford their subprime loans. Some families are on the edge of a financial abyss. The rapid rate of foreclosure threatens to continue unless appropriate actions are taken.

This budget will help HUD in its efforts to address the housing crisis. It will give us the tools we need to continue our work. We must reverse the downward trend in housing indices and homeownership. We must help homeowners retain their homes. We must also look to the future because we must increase the number of families who own their own homes. And we must retain the sizable increase in minority homeownership. As you may recall, in 2002, the President challenged the nation to create 5.5 million new minority homeowners by the end of this decade. And we have made substantial progress: 3 million more minority families have become homeowners since 2002. We must build on that progress.

Of course, the President's stimulus package will help. I'm grateful Congress has given this package its support. By temporarily increasing FHA loan limits, we can back more safe, sound mortgages in high-cost states and help homeowners trapped in exotic subprime loans to hold on to their houses.

We also need the President's request for $65 million in this budget for housing counseling. Why? Well, we have learned that housing counseling makes a powerful difference in homeownership and foreclosure avoidance. You see, many of the failed loans were a surprise because the homeowner didn't read the fine print and didn't understand the contract. Housing counselors could have helped the homeowner gain a better perspective about affordability and balanced expectations. Families must buy homes they can afford. They must understand the contracts – have an especially clear idea of the features of financing and the ramifications of resets, and the terms and the timelines. Prospective homeowners must have a prudent mortgage, not a "suicide loan." We must remove the mystery, confusion, and vagueness from the process. There must be full disclosure, understandable information, and a transparent process.

That's why we need housing counselors to be fully engaged in the process. Housing counselors are an important line of defense against foreclosure. They can enlighten homeowners and help prospective owners determine the affordability and appropriateness of a mortgage. They can explain the contract and answer questions.

The President has been a strong proponent of funding for housing counseling, and has worked with you to more than double the funding for housing counselors since the start of this Administration. Now, given the magnitude of the crisis we face, it is important to expand funding for housing counseling. The President's request in this area is paramount to prevent future foreclosures.

These funds, in addition to the President's request of $180 million for the Neighborhood Reinvestment Corporation, provide great services to those in need. And we now know that spending in this area is a sound investment, saving the nation from expenses related to foreclosures, lost revenues, slowdowns in business spending and new housing construction, and declining home values.

The Administration is also taking steps to ensure it isn't as hard for homeowners to read the fine print when they do sign on the dotted line. That's why we are committed to reform of the Real Estate Settlement Procedures Act (RESPA). We hope to publish a new RESPA rule in the coming days. Our goal is to bring much needed transparency to the home-buying process.

**Strengthening Communities by Sustaining Homeownership Gains**
The President has also requested a substantial increase of $263 million for our HOME program. This would bring the funding level up to nearly $2 billion for the nation's largest block grant program specifically designed to produce affordable housing. This request includes $50 million for the American Dream Downpayment Initiative, which provides flexible housing assistance, and increases affordable housing and minority homeownership. Since the inception of the HOME program 16 years ago, almost 812,000 units of affordable housing have been created.

We also need to support other efforts to maintain current homeownership and stimulate new purchases. In August 2007, the President and I introduced an effort, *FHASecure*, to help more Americans facing foreclosure refinance into a safer, more secure Federal Housing Administration (FHA) loan. We did this using current regulatory and I am pleased to report that the program is helping many families avoid foreclosure. There has been a noticeable increase in the number of closings with FHA. Two months ago, there were 2,500 closings a month with FHA. Now, there are 4,500 closings a week! By year's end, we expect FHA will be able to help more than 300,000 families refinance into affordable FHA-insured mortgages.

Mr. Chairman, you should also know that FHA has mailed letters to hundreds of thousands of at-risk homeowners to urge them to refinance with safer, more affordable FHA-backed mortgages. These letters are being sent to homeowners who already have or soon will confront the first reset of their adjustable rate mortgage, and are currently living in locations subject to FHA loan limits. We will be sending these letters out to about 850,000 at-risk homeowners.

But we could do so much more with legislation to modernize the FHA. Congress needs to quickly complete work on a bill that will immediately give us authority to expand FHA's ability to serve the very type of borrowers who were lured into high-cost, high-risk loans. We need to make the minimum down payment more flexible, create a fairer insurance premium structure, and permanently increase FHA's loan limits. This will allow more families to use FHA, perhaps hundreds of thousands of families. We need FHA modernization as soon as possible. Every day of delay places qualifying homeowners at unnecessary risk. Our estimates indicate that FHA modernization could help as many as 250,000 more families by the end of 2008.

We asked for this bill two years ago to help us avoid the mortgage crisis. But now we need it to help address the crisis.

I am also pleased that the mortgage industry has stepped forward to help. Treasury Secretary Paulson and I have worked closely with the mortgage industry to address the housing crisis in another way: enlist proactive industry cooperation. The industry worked with the Administration to develop a program called the *HOPE NOW Alliance* to help homeowners at risk of foreclosure. The *Alliance* has implemented a plan that could help up to 1.2 million homeowners avoid foreclosure over the next two years by providing systematic relief that includes modify or refinancing existing loans, moving borrowers into *FHASecure* loans, and implementing a five-year freeze on interest rate resets for subprime loans. The industry has already assisted 370,000 homeowners. HOPE NOW has contacted more than half a million borrowers in the second half of 2007.

There are other actions that will help. So, you'll see the budget has a sharp increase for our Self-Help Homeownership Opportunity Program (SHOP) that works with organizations like Habitat for Humanity and others to build housing through sweat equity.

Fair housing practices are an important aspect of homeownership. This year marks the 40th anniversary of passage of the *Fair Housing Act*. Our budget provides $51 million to protect the right of all Americans to be free from housing discrimination based on race, religion, gender, sexual orientation, family status, or disability. This is an increase of $1 million over the current appropriated level.

I also hope you will notice our new Fair Lending Division. This office will examine questionable mortgage practices and investment complaints from homebuyers. It is an important addition – a new way to directly address unfair practices.

This new division has already made an impact. Recently, HUD awarded grants totaling approximately $1 million for the development of strategies to address lending discrimination. These grants were awarded to state agencies in Ohio, Massachusetts, Colorado, and Pennsylvania, states with some of the highest rates of foreclosure in the nation. The agencies in these four states are developing "best practices" for intake procedures, investigation techniques, and education and outreach activities for their mortgage lending enforcement programs. These "best practices" will be made available to all state and local agencies in the Fair Housing Assistance Program (FHAP).

**Ending Chronic Homelessness**

And the homeless must not be forgotten. We are making strides in reducing chronic homelessness with our "continuum of care" approach. We are working to provide assistance across the entire spectrum of homelessness. This continuum of care is vital because homelessness is a complex, difficult, multi-dimensional problem, both for those who are homeless and for those who are working to meet the needs of the homeless.

Our national effort to end homelessness has been steadfast, with strong commitment and investment. Since 2001, HUD has awarded approximately $10 billion in funding to support the housing and service needs of the homeless.

We are working especially hard to stop the revolving door for the chronically homeless. Early on in this Administration, President Bush set a goal to end chronic homelessness in America. If we are to be successful, we must help break a cycle of circumstances and behaviors that consistently place the chronically homeless on the streets.

And there is evidence that we are making progress. The investment by HUD and local communities is working. In November, HUD announced that, across the country, local communities saw a nearly 12 percent drop in the number of individuals who literally call the streets their home, nearly 20,000 fewer persons living on our streets. This was good news. It shows that the hard work of thousands of people is paying off, that our efforts can make a powerful, positive difference.

Of course, we still have a long way to go before ending chronic homelessness. There are still people living on the streets, many of them are mentally ill, addicted to alcohol and/or drugs, or physically disabled. These are the most vulnerable among us, the hardest-to-house and the hardest-to-serve. The chronically homeless are people who are homeless for more than a year or who continue to cycle back into homelessness. They are people who need serious, sustained assistance to overcome their homelessness.

Mr. Chairman, I know you are mindful of the need to help our nation's homeless veterans. Americans are deeply, profoundly grateful for the service and sacrifice of our nation's veterans. In the proposed budget, there is a request for $75 million for our Veterans Affairs Supportive Housing Program (VASH). Prior to Fiscal Year 2008, this program had not been funded since 1993. Working with the Veterans Administration, we will create an additional 9,800 vouchers for FY09, bringing the total to approximately 20,000 homeless veterans being served through housing and social services, double the number of available housing vouchers.

**Continuing HUD's Improved Management and Performance**

Finally, I would like to discuss the management of the Department. For the first time since 1994, the Government Accountability Office (GAO) removed HUD's single-family housing mortgage insurance and rental housing assistance programs from the list of High-Risk federal programs. I am very proud of that fact.

I am also very pleased that HUD achieved a clean opinion in its 2007 financial statements, continuing a multi-year trend.

We need to build upon this progress. So, Mr. Chairman, I also want to mention that the $313 million included in the request for our Working Capital Fund will enable the Department to make critical upgrades to our aging information technology (IT) systems. If we want to improve the delivery and control of the Department's significant program resources for the benefit of the people and communities we serve, then it is imperative that we have sufficient funding for IT systems modernization efforts. The $65 million reduction of our 2008 request for IT funding was devastating. That reduction has stopped practically all HUD systems modernization efforts.

Mr. Chairman, this committee should know that without sufficient funding, we will be unable to modernize FHA's 25 year old mainframe systems to effectively support FHA program reforms. We will be unable to improve the automation of the Section 8 Project-Based Assistance contract renewal and payment processes. We will be unable to effectively implement asset management improvements over the public housing stock. We will continue to manage our $16 billion a year Housing Choice Voucher Program through a cumbersome spreadsheet process rather than an automated database that can provide timely information for HUD and Congressional oversight. HUD has demonstrated the ability to successfully use its limited IT funding. I urge you to support the budget request for IT funding.

**Conclusion**

Overall, this is a good budget for the Department...balanced, reasonable, appropriate, and workable. It allows us to operate within a framework of cooperation and partnership with other federal agencies, state and local governments, and non-profit initiatives. The American people count on HUD...count on us for direct assistance, grants, professional administration, and high-quality public service. With this budget we meet those expectations. With this budget we can get the job done.

I also want to thank the employees at HUD for their extraordinary service during a very trying and difficult period. Mr. Chairman and members of the committee, I am sure that you would be extremely impressed by the day-to-day work product of our employees. I am very proud of my colleagues at HUD.

Mr. Chairman, as we proceed through the budget process, I look forward to working with you. I thank you and the committee for your consideration of this budget request.

####

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-1000

OFFICE OF CONGRESSIONAL AND
INTERGOVERNMENTAL RELATIONS

APR - 8 2008

The Honorable Barney Frank
Chairman, Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515-6050

Dear Mr. Chairman:

Thank you for your letter of March 14, 2008, requesting answers to questions in connection with my testimony on March 11, 2008. Please find enclosed the responses and related attachments.

Sincerely,

Mark A. Studdert
General Deputy Assistant Secretary
for Congressional and
Intergovernmental Relations

Enclosures

1) How many public housing units in New Orleans have been demolished to date? Please provide numbers and percentages for each housing development, including the "Big Four" of St. Bernard, Lafitte, C.J. Peete, and B.W. Cooper. Please provide a schedule for when upcoming demolitions will occur and a timeline by which all demolitions will be completed.

| SUMMARY OF DEMOLITION STATUS AS OF MARCH 18, 2008 HOUSING AUTHORITY OF NEW ORLEANS | | | | | |
|---|---|---|---|---|---|
| | **St. Bernard** | **C.J. Peete** | **B.W. Cooper** | **Lafitte** | **Total** |
| **Total Buildings** | 129 | 54 | 66 | 76 | 325 |
| **Total Units** | 1412 | 715 | 1126 | 892 | 4145 |
| | | | | | |
| **Total Demolished** | | | | | |
| **Buildings** | 47 | 30 | 17 | | 94 |
| **% of Total Buildings** | 36% | 56% | 26% | | 29% |
| **Units** | 594 | 402 | 276 | | 1272 |
| **% of Total Units** | 42% | 56% | 25% | | 31% |

**The demolition at St. Bernard, C.J. Peete, and B.W. Cooper will be 100 percent complete by the end of April 2008.**

**The demolition of Lafitte is scheduled to begin as soon as the demolition permit is released by the City of New Orleans. According to the Master Developer Agreement, the initial phase of demolition at Lafitte is scheduled to be completed by September 8, 2008. The 94 units currently being repaired for temporary re-occupancy are scheduled to be demolished by September 2009.**

2) How many public housing units does the Housing Authority of New Orleans currently have available for occupancy? How many units are currently being rehabilitated and can be made ready for occupancy? Please provide these figures for the time period beginning August 26, 2005, through the present.

**Currently, the Housing Authority of New Orleans (HANO) has a total of 213 units available for occupancy. Of these, 130 are key ready and 83 units require three to five days of minor work to make them available. Additionally, another 290 units will be under contract within 60 to 90 days. These units will first be available by December 2008.**

**In addition, at this time, 593 units are being rehabilitated/constructed. The remaining units will be available in phases before December 2009.**

**These figures are detailed in attachment 1a. Attachments 1a through 1e also contain occupancy data for intervals beginning August 2005 through the present.**

3) A recent UT-Austin survey funded by HUD found that 35 percent of respondents wanted to return to public housing in New Orleans. At Tuesday's hearing you stated that the Department would house all those who indicated a preference to return to public housing in New Orleans. To date, how many survey respondents have been housed in public housing in New Orleans?

   **Based upon the survey results, a total of 50.5 percent of former public housing residents have returned to New Orleans. Of that number, 38.3 percent of former public housing residents are living in public housing. The balance is receiving assistance under the Disaster Voucher Program.**

   **There are currently 1,862 HANO families housed in public housing in New Orleans. Based upon the survey results, some of those currently returned to and now occupying public housing would prefer to relocate to a Section 8 voucher unit or to another location. The survey results indicate that 34.9 percent, totaling 1,796 families, want to return to public housing in New Orleans. The Department and HANO remain committed to provide public housing to those families that wish to return to a public housing unit.**

4) The survey also found that UT-Austin researchers were only able to locate 2,553 out of 5,146 former public housing residents. The researchers stated that "All totaled, approximately 75 percent of the resident data file consisted of incorrect or useless information." Where are the other 2,593 families? What type of Federal rental assistance are they receiving? What policies or procedures will the Department enact to update its records for these missing households?

   **Residents' failure to respond to the survey does not mean they are not receiving housing assistance. Former public housing residents are being housed either in New Orleans or in other locations. Most of these former residents are being assisted under the Disaster Voucher Program. HANO is obtaining updated records from the survey effort, which included outreach to housing authorities where displaced residents are now residing.**

   **Of the 5,146 pre-Katrina public housing families, HANO has established contact with 4,660 clients. As indicated above, 1,862 families are now in public housing in New Orleans. Another 1,077 are on Disaster Voucher Program vouchers in New Orleans. Another 814 are in various locations outside of New Orleans under the Disaster Voucher Program. A listing of these locations is provided in Attachment 2. The remaining families are living in public housing in other jurisdictions, or with other family members.**

5) Congress appropriated funds for the Disaster Voucher Program to provide each and every pre-Katrina HUD-assisted household in their repaired units or in other units. How much funding remains in the Disaster Voucher Program? Please provide a table showing program expenditures by year and number of households served. Have these funds been used for any other purpose?

**HUD received $390 million to provide housing for the Disaster Voucher Program. At this time all funds have been obligated; however, $50 million remains to be disbursed. Of the $390 million that has been obligated, $341.3 million has been used for Housing Assistant Payments (HAP), $34.3 million for Administrative Fees, and $14.4 million for Case Management/Placement Fees. A table showing program expenditures and households served is below. All funds have been used for the purpose of the program.**

| Disaster Voucher Program | | | | |
|---|---|---|---|---|
| | 2006 | 2007 | 2008 | Total |
| Families Assisted | 22,886 | 33,562 | 3,652 | 33,733[1] |
| Program Expenditures | $118,732,833 | $188,809,440 | $32,073,763 | $339,616,036 |

6) Has the demolition permit for Lafitte development been issued yet? If not, why is the City still withholding this permit?

**The demolition permits for Lafitte have not yet been issued. The City has indicated that a memorandum of understanding between the C.J. Peete residents and the developer must be executed prior to the release of permits for the Lafitte redevelopment program. Unfortunately, to date, the C.J. Peete Resident Council leaders have demonstrated an unwillingness to negotiate in good faith. Despite what the Department perceives to be unreasonable demands, the developer and HANO continue to negotiate in good faith and work toward agreement with the C.J. Peete Resident Council.**

**It should be noted that all Lafitte documentation requested by the City of New Orleans has been provided as outlined below:**

| LAFITTE DOCUMENTS TO CITY OF NEW ORLEANS | |
|---|---|
| **Redevelopment Financing Plan** | **Submitted to Mayor's Office on February 15, 2008** |
| **Executed Master Development Contract** | **Submitted to Mayor's Office on March 7, 2008** |
| **Redevelopment and repopulation timelines** | **Submitted to Mayor's Office on February 15, 2008** |
| **MOU with Resident Council** | **Submitted to Mayor's Office on February 15, 2008** |
| **Evidence of phased redevelopment** | **Submitted to Mayor's Office on February 15, 2008** |

[1] As of March 2008, a total of 33,733 DVP leases have been executed since the DVP's inception.

7) What is the status of the 75 phased redevelopment units that the Department committed to build at St. Bernard? What is the process for families to occupy these units? When will this process be announced to families?

**The New Orleans City Council's motion of December 20, 2007, indicated that HANO was to temporarily reoccupy 75 units at St. Bernard "where practicable." HANO is currently evaluating whether repairing the 75 is practicable, taking into consideration the cost and the availability of city services such as police, fire, transportation, and medical. Where it is not practicable, HANO is prepared to repair 75 units at other developments.**

8) What is the status of the 94 phased redevelopment units that the Department committed to build at Lafitte? What is the process for families to occupy these units? When will this process be announced to families?

**A total of 94 units within the Lafitte Development have been placed under contract to be renovated. At present, 78 of these units are under construction and are scheduled to be completed in April 2008. The remaining 16 units will be under construction shortly and are scheduled to be completed no later than June 30, 2008.**

**In accordance with Public Housing Notice 2007-3, the 94 units contracted to be renovated are being offered to the actual former tenants that resided within those units prior to Hurricane Katrina. HANO mailed letters/certifications to the former 94 residents on March 10, 2008. (Please reference Attachment 3.) The former residents have been given 30 days to respond/certify if their intent is to return to their former unit for a temporary period or accept a Tenant Protection Voucher.**

**Secondly, HANO mailed a letter/certification to all remaining residents of the Lafitte site during the week of March 24, 2008. This letter/certification requested all remaining residents to certify their interest in being entered into a lottery to return to one of the available, unoccupied 94 units. A 30-day period will be allowed for responses. Once the 30-day period expires, all former public housing residents in New Orleans who certify a preference to occupy an available unit (given the correct size bedroom) will be placed in a lottery to determine the order of occupancy.**

9) What is the status of the development of Imperial Drive?

**Redevelopment planning is currently underway at the Imperial Drive site. The plans for Imperial will be closely aligned and integrated with the St. Bernard redevelopment in keeping with HANO's commitment to facilitate rebuilding of this geographic area of the City. It should be noted that a post-Katrina environmental assessment revealed excessive levels of lead and other metals existing on the site that will require remediation estimated at approximately $6 million. Discussions are underway with the developer regarding the remediation of the site.**

10) What employment opportunities resulting from the demolitions are being given to residents through the Section 3 program? How many residents have applied for jobs? What type of jobs have they applied for? How many residents have received jobs? How many residents have been rejected from jobs? For what reason have residents been rejected?

**Initial reports from contractors indicate that 47 Section 3 residents have been hired to date to perform demolition activities at the Fischer, Lafitte, B.W. Cooper, and St. Bernard developments. Of this number, 18 public housing residents have been hired. Most of the positions filled to date are labor classifications, as the majority of new positions created have resulted from the abatement work that precedes actual demolition. An additional 55 Section 3 public housing residents have been employed to perform pre-demolition and recovery activities, including activities such as unit trash outs, grass cutting/maintenance, debris removal, site clean-ups, and TSP wipes. These employment opportunities have, in part, resulted from roughly 30 contract awards to resident-owned businesses, and include both labor and supervisory classifications. Other employment opportunities not related to the physical recovery of HANO's housing portfolio, have resulted in roughly 27 hires. These positions have been administrative in nature. The Housing Authority does not maintain data regarding the number of applications received, as such applications are processed through its contractors, and retention of such information has not been a part of the reporting requirements related to Section 3.**

**HANO has conducted five job recruitment/informational sessions with residents from the various sites. The sessions were held during the month of February, and approximately 200 Client Service Employment forms were completed. Each of the developers has received completed Client Service Employment Forms for individuals seeking employment at the particular sites. HANO is currently awaiting feedback from each of the developers regarding disposition of applications provided.**

11) What efforts has the Department undertaken/will undertake to preserve bricks removed from the demolition site?

**In regard to preservation and salvaging, please note the following:**

**<u>C.J. Peete</u>: Approximately 200,000 bricks will be preserved. The bricks are to be cleaned, placed on pallets, wrapped in plastic, and stored on-site. It is anticipated that the salvaged bricks will be reused in the new development. In addition, HANO is working with Mercy Corps and the Preservation Resource Center (PRC) of New Orleans regarding the salvaging of additional bricks and other materials at C.J. Peete.**

**<u>Lafitte</u>: Mercy Corps and the Preservation Resource Center of New Orleans have submitted a salvage plan, and HANO has approved their request for the salvage of bricks, roof tiles, and other materials from Lafitte.**

**St. Bernard: The developer had its demolition contractor explore the possibility of salvaging bricks at the St. Bernard site. The analysis showed that removing, cleaning, and hauling the bricks would add 6 months to the timeline for demolition and increase the cost by $900,000 to $1,500,000, depending upon the method used for salvaging. In light of the urgency to comply with a construction schedule required by the tax credit program and the financial gap that salvage would create, the developer did not see salvaging of bricks as a viable and economically feasible alternative. HANO has offered area nonprofit organizations an opportunity to salvage bricks and other materials from the site.**

**B.W. Cooper: The developer for B.W. Cooper, KBK Enterprises is currently engaged in conversations with Mercy Corps and PRC to determine what materials these service organizations would like to salvage from the B.W. Cooper site.**

**The developer has explored the possibility of crushing and reusing the brick on-site; however; concerns have been raised about the impact of the crushing process on the safety, security, and air quality for the existing 283 tenants currently living on the B.W. Cooper site. Therefore, the developer has made a decision not to undertake this process.**

**It should also be noted that the developer has been vigilant about recycling materials on-site to minimize the negative impact on the environment and local landfills. To date there has been 350,540 pounds of material recycled from the B.W. Cooper Site.**

Attachment 1a

## Weekly Unit Count Tracking

### UNIT TURNOVER STATUS - as of a March 15, 2008

| Site | Total Units | Total Units Currently Occupied | Units Currently under repair | * Units Scheduled for Pre-Occupancy | Total Current Available Units |
|---|---|---|---|---|---|
| Iberville | 821 | 596 | 115 | 82 | 28 |
| Lafitte | 94 | 0 | 94 | 0 | 0 |
| B.W. Cooper | 303 | 268 | 26 | 0 | 9 |
| Fischer 1 & 3 * * * * | 123 | 119 | 2 | 0 | 2 |
| Fischer Sr. Village | 100 | 94 | 0 | 0 | 6 |
| Desire * * * * * | 265 | 64 | 158 | 1 | 42 |
| Florida * * * * * * | 77 | 0 | 77 | 0 | 0 |
| Guste New Homes | 82 | 67 | 0 | 0 | 15 |
| Guste Hi Rise | 385 | 327 | 55 | 0 | 3 |
| Guste Low Rise | 216 | 73 | 143 | 0 | 0 |
| Scattered Sites | 219 | 143 | 55 | 0 | 21 |
| River Gardens * * * * * * * * | 276 | 114 | 158 | 0 | 4 |
| | 2961 | 1865 | 883 | 83 | 130 |
| Total Units Occupied Pre-Katrina | 5146 | | | | |
| Units currently available and under construction/rehabilitation | 2961 | | | | |

** Pre-Occupancy includes completion of minor UPCS items and all pending environmental clearances*

** * Lafitte - 94 units being repaired now*

** * * * Fischer I & III includes LIHTC units leased to former public housing tenants through the S8 Voucher program*

** * * * * Savoy I approved for construction - additional 158 units added to the development. Scheduled completion Dec. 2010*

** * * * * * Florida is scheduled to be completed Dec. 2009*

* * * * * * * * Anticipated completion of River Gardens includes units leased to former PH tenants through the DVP program.
*In addition to the 122 ACC, an additional 60 ACC units approved for construction.*
*Additionally, the River Gardens unit count includes 37 LIHTC units in the historic buildings and 57 LIHTC Elderly Units.*

**Weekly Unit Count Tracking**

**UNIT TURNOVER STATUS - 12.3.07**

| | Total Units Available | Total Units Currently Occupied | Units Currently under repair | * Units Scheduled for Pre-Occupancy | Total Current Available Units |
|---|---|---|---|---|---|
| Iberville | 821 | 568 | 125 | 116 | 12 |
| Lafitte * * * * * | 94 | 0 | 94 | 0 | 0 |
| *B.W. Cooper* * * * * * * | 303 | 254 | 17 | 0 | 32 |
| Fischer 1 & 3 * * | 123 | 123 | 0 | 0 | 0 |
| Fischer Sr. Village | 100 | 95 | 1 | 0 | 4 |
| Desire | 107 | 27 | 42 | 0 | 38 |
| Florida | 77 | 0 | 77 | 0 | 0 |
| Guste New Homes | 82 | 41 | 0 | 16 | 25 |
| Guste Hi Rise* * * | 385 | 291 | 55 | 0 | 23 |
| Guste Low Rise | 216 | 78 | 135 | 0 | 0 |
| Scattered Sites | 219 | 139 | 59 | N/A | 20 |
| River Gardens* * * * | 122 | 121 | 0 | N/A | 1 |
| | 2649 | 1737 | 605 | 132 | 155 |

| | |
|---|---|
| Total Units Occupied Pre-Katrina. | 5146 |
| Total Current Units Available for Occupancy After Renovations. | 2649 |
| % of Current Occupancy vs. Pre-Katrina Occupancy. | 34% |
| % of Units Available vs. Pre-Katrina Units Available. | 51% |

** Pre-Occupancy includes completion of minor UPCS items and all pending environmental clearances.*

** * Fischer I & III includes LIHTC units leased to former public housing tenants through the S8 Voucher program.*

** * * 10 Units at the Guste High Rise are off-line due to interior renovations relocation. The balances are being prepared for re-occupancy.*

****** River Gardens leasing info includes units leased to former public housing tenants through the DVP program.*
*These units increase the number of affordable housing opportunities at this site.*
*Additionally, the River Gardens unit count does not include 37 LIHTC units in the historic buildings and 57 LIHTC Elderly Units.*

** * * * * For the Lafitte units, 94 units are being repaired now, with the remaining 102 to be repaired based upon results of the survey of displaced residents.*

** * * * * * Of the 425 units at B.W. Cooper, 303 are being repaired now, with an additional 122 units being examined to determine the feasibility of making them available for temporary re-occupancy.*

Attachment 1c

**Weekly Unit Count Tracking**

## UNIT TURNOVER STATUS - 12.20.06

| | Total Units Available | Total Units Currently Occupied | Units currently under repair | **Units Scheduled for Pre-Occupancy** | Total Current Available Units | |
|---|---|---|---|---|---|---|
| **Iberville** | **821** | 297 | 129 | 303 | 92 | |
| **B.W. Cooper** | **320** | 88 | 0 | 47 | 185 | |
| **Fischer 1 & 3** | **123** | 52 | 65 | 0 | 6 | |
| **Fischer Sr. Village** | **100** | 79 | 9 | 0 | 12 | |
| **Fischer Low Rise *** | **180** | 10 | 170 | 0 | 0 | *To Be Demolished |
| **Guste New Homes** | **82** | 0 | 82 | 0 | 0 | |
| **Guste Hi Rise** | **385** | 199 | 107 | 0 | 79 | |
| **Guste Low Rise** | **216** | 165 | 51 | 0 | 0 | *To Be Demolished |
| **Scattered Sites** | **219** | 118 | 82 | 0 | 19 | |
| **River Gardens** | **122** | 121 | 0 | 0 | 1 | |
| | **2568** | **1129** | **695** | **350** | **394** | |

| | |
|---|---|
| **Total Units Occupied Pre-Katrina** | **5146** |
| **Total Current Units Available for Occupancy After Rennovations** | **2172** |
| **% of Current Occupancy vs. Pre-Katrina Occupancy** | **22%** |
| **% of Units Available vs. Pre-Katrina Units Available** | **42%** |

***Units @ the Fischer & Guste Low Rises are scheduled for demolition and will not remain in the available unit stock.***

***** Pre-Occupancy includes completion of minor UPCS items and all pending environmental clearances*****

***42 Units @ the Guste High Rise are off line due to interior renovations relocation. The balance are being prepared for re-occupancy.***

Attachment 1d

## Weekly Unit Count Tracking

## UNIT TURNOVER STATUS - 5.19.06

| | Total Units Available | Total Units Currently Occupied | Units currently under repair | **Units Scheduled for Pre-Occupancy** | Total Current Available Units | |
|---|---|---|---|---|---|---|
| **Iberville** | **821** | 194 | 232 | 303 | 92 | |
| **B.W. Cooper** | **320** | 0 | 88 | 47 | 185 | |
| **Fischer 1 & 3** | **123** | 0 | 117 | 0 | 6 | |
| **Fischer Sr. Village** | **100** | 73 | 15 | 0 | 12 | |
| **Fischer Low Rise *** | **180** | 58 | 122 | 0 | 0 | *To Be Demolished |
| **Guste New Homes** | **82** | 0 | 82 | 0 | 0 | |
| **Guste Hi Rise** | **385** | 262 | 44 | 0 | 79 | |
| **Guste Low Rise** | **216** | 169 | 47 | 0 | 0 | *To Be Demolished |
| **Scattered Sites** | **219** | 115 | 85 | 0 | 19 | |
| **River Gardens** | **122** | 121 | 0 | 0 | 1 | |
| | **2568** | **992** | **832** | **350** | **394** | |

| | |
|---|---|
| **Total Units Occupied Pre-Katrina** | **5146** |
| **Total Current Units Available for Occupancy After Rennovations** | **2172** |
| **% of Current Occupancy vs. Pre-Katrina Occupancy** | **19%** |
| **% of Units Available vs. Pre-Katrina Units Available** | **42%** |

****Units at the Fischer and Guste Low Rises are scheduled for demolition and will not remain in the available unit stock.***

***** Pre-Occupancy includes completion of minor UPCS items and all pending environmental clearances.*****

***42 Units at the Guste High Rise are off-line due to interior renovations relocation. The balance are being prepared for re-occupancy.***

Attachment 1e

## HOUSING AUTHORITY OF NEW ORLEANS
## PRE-KATRINA INVENTORY / OCCUPANCY
## AUGUST 2005

| HANO DEVELOPMENT | PUBLIC HOUSING INVENTORY PRE-KATRINA | OCCUPIED PUBLIC HOUSING UNITS PRE-KATRINA |
|---|---|---|
| ST. THOMAS (RIVER GARDEN) | 150 | 33 |
| C.J. PEETE | 723 | 144 |
| IBERVILLE | 836 | 673 |
| LAFITTE | 896 | 865 |
| B.W. COOPER | 1474 | 1015 |
| ST. BERNARD | 1436 | 963 |
| FLORIDA | 127 | 125 |
| GUSTE (HIGH RISE) | 385 | 365 |
| GUSTE (LOW RISE) | 228 | 178 |
| FISCHER (LOW RISE) | 180 | 78 |
| FISCHER (ELDERLY) | 100 | 96 |
| DESIRE (ABUNDANCE, TREASURE, SAVOY) | 71 | 71 |
| SCATTERED SITES | 773 | 540 |
| TOTAL | 7379 | 5146 |

Attachment 2

| HANO Pre-Disaster PH Families Under DVP Lease as of 3/20/08 | | |
|---|---|---|
| PHA Code | PHA Name | PH Families |
| AL001 | Birmingham | 4 |
| AL006 | Montgomery | 1 |
| AL047 | Huntsville | 1 |
| AL169 | Prichard | 1 |
| AR015 | Texarkana Housing Authority | 1 |
| AR181 | Fayetteville Housing Authority | 1 |
| AR219 | Cabot Housing Agency | 1 |
| CA068 | Long Beach | 2 |
| CO001 | Denver | 3 |
| CO052 | Aurora | 2 |
| FL028 | Pompano Beach | 1 |
| GA010 | Marietta | 21 |
| GA011 | Decatur | 11 |
| GA116 | Carrollton | 1 |
| GA232 | College Park Housing Authority | 19 |
| GA237 | Dekalb County Housing Authority | 18 |
| GA264 | Fulton County | 8 |
| GA266 | City of Marietta | 3 |
| IL101 | Dupage Housing Authority | 1 |
| LA001 | New Orleans Housing Authority | 1077 |
| LA002 | Shreveport Housing Authority | 11 |
| LA003 | E. Baton Rouge Housing Authority | 115 |
| LA013 | Jefferson Parish Housing Authority | 30 |
| LA115 | Natchitoches City Housing Authority | 2 |
| LA159 | Concordia Parish Police Jury | 1 |
| LA190 | Bossier Parish Section 8 | 3 |
| LA194 | Thibodaux City | 2 |
| LA199 | City of Port Allen | 1 |
| LA202 | City of Donaldsonville | 1 |
| LA205 | City of New Roads | 1 |
| LA206 | Kentwood | 1 |
| LA211 | Terrebonne Parish Consolidated Government | 3 |
| LA214 | Iberville Parish | 1 |
| MI901 | Michigan State Housing Development Authority | 3 |
| MO198 | Boone County | 2 |
| MS040 | Mississippi Regional Housing Authority No. VIII | 2 |
| MS058 | Mississippi Regional Housing Authority No. VI | 8 |
| MS103 | Jackson Housing Authority | 7 |
| NJ204 | Gloucester County Housing Authority | 1 |
| NM057 | Bernalillo County Housing Authority | 1 |
| NV002 | Las Vegas | 4 |
| SC027 | Florence | 1 |
| TN005 | MDHA-Nashville | 1 |
| TX001 | Austin | 31 |
| TX004 | Fort Worth | 12 |
| TX005 | Houston Housing Authority | 146 |
| TX006 | San Antonio | 3 |
| TX009 | Dallas | 36 |
| TX012 | Baytown Housing Authority | 5 |

| | | |
|---|---|---|
| TX037 | Orange City | 1 |
| TX079 | Killeen | 1 |
| TX128 | Plano | 25 |
| TX263 | Marble Falls | 1 |
| TX392 | Denton | 3 |
| TX431 | Tarrant County | 6 |
| TX433 | Arlington | 9 |
| TX434 | Grand Prairie | 26 |
| TX435 | Garland | 3 |
| TX441 | Harris County Housing Authority | 185 |
| TX456 | Tyler | 4 |
| TX459 | Longview | 1 |
| TX486 | Nacogdoches Housing Authority | 2 |
| TX512 | Detcog | 3 |
| TX526 | Brazos Valley Council of Governments | 2 |
| TX560 | Montgomery County Housing Authority | 6 |
| WA003 | Bremerton | 1 |

| | | |
|---|---|---|
| **Total:** | | **1891** |
| | Inside New Orleans | 1077 |
| | Outside New Orleans | 814 |

Attachment 3

March 10, 2008

Dear Resident:

This letter is to inform you that a unit in the Lafitte Development is expected to be available for temporary occupancy on or around May 1, 2008. The occupancy period is expected to last a maximum of eleven (11) months. The unit you will be re-occupying is scheduled for demolition in March 2009. If you choose to occupy this unit you will be expected to move out no later than January 2009.

The Uniform Relocation Act of 1970 (URA), will govern the depopulation of the reoccupied Lafitte units. The attached document entitled *"Lafitte Re-occupancy URA Information"* will outline the housing options that are given under the URA. *The Lafitte Re-occupancy URA Information* must be signed by the Head of Household and returned to HANO if you intent to re-occupy the temporary units at Lafitte.

As the Head of Household, if you wish to return to one of these units, you must notify us of your intent to return within (30) days of the date of this letter. Please indicate your intentions by completing one of the following attached Family Certification of Intent forms:

- ______*Family Certification of Intent to Temporarily Reoccupy the Lafitte Development.* **Initial** this line if **you want to temporarily occupy an available unit at the Lafitte Development**
- ______*Family Certification of Intent to Return to Pre-Disaster Tenant Based Voucher Location.* **Initial** this line **if you DO NOT want to live in an available unit at the Lafitte Development, BUT**, you want to receive a tenant protection voucher or comparable tenant assistance.

Signature of Head of Household____________________________ Phone #__________________

Please send your completed Family Certification of Intent Form and The Lafitte Re-occupancy URA Information Form to this address:

Housing Authority of New Orleans
4100 Touro Street
New Orleans, LA 70122
ATTN: Management Department

Once HANO receives your Family Certification of Intent Form and the Lafitte Re-occupancy URA Information Form, you will receive further confirmation for your selected intention.

If you have indicated your intent to return and accept an available unit at the Lafitte development for temporary occupancy, please anticipate moving into a unit within sixty (60) days of the date of this letter.

If you have any questions, please contact the HANO Management Office at (504) 670- 3342.

Sincerely,

Tracy Mercadel
Director of Management

# Lafitte Re-occupancy URA Information

Any family that will occupy a **temporary unit at Lafitte** will be entitled to all of the benefits allowed under the Uniform Relocation Act of 1970. This form outlines the housing options that families will have as a result of the depopulation and subsequent demolition of the temporary units at Lafitte.

**The family will be provided a notice at least ninety ( 90) days before displacement**. The family will not be required to move without at least ninety (90) days advance written notice of the earliest date by which the family may be required to move. Families will be relocated to other decent, safe, sanitary, and affordable housing that is to the maximum extent possible, housing of their choice. Families will not be required to move until the family is offered a comparable housing unit. A comparable housing unit is defined by HANO as one of the following:

The family will be offered comparable housing, which may include the following:

- Tenant-based or project based assistance
- Occupancy in a unit operated or assisted by HANO
- Occupancy in a newly developed Lafitte Community unit if available, and if the family qualifies for occupancy in the newly developed Lafitte Community

Any necessary counseling with respect to the relocation and the selection of replacement housing will be provided to the affected family. In cases in which the family chooses Housing Choice Program Voucher Assistance, the family will be provided with the voucher at least 90 days before displacement.

Families will receive relocation assistance according to the specifications of the URA. The family has a right to appeal HANO's determination as to the family's application for relocation assistance for which the family may be eligible.

Please sign this form and submit it to the below address along with your completed Family Certification of Intent:

Housing Authority of New Orleans
4100 Touro Street
New Orleans, LA 70122
ATTN: Management Department

By signing this form, the family is acknowledging that they understand that this occupancy is for a **temporary time period**; the unit that is available for occupancy will be demolished with **eleven (11) months of occupancy**; and the relocation comparable housing options have been given to the family.

______________________________ ____________
Print Name of the Head of Household Date

______________________________ ____________
Signature of the Head of Household Date

WASHINGTON
LEGISLATIVE OFFICE

**AMERICAN CIVIL LIBERTIES UNION**
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Caroline Fredrickson
*DIRECTOR*

NATIONAL OFFICE
125 BROAD STREET, 18TH FL.
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T/212.549.2500



March 10, 2008

The Honorable Barney Frank
Chairman
House Financial Services Committee
2129 Rayburn House Office Building
Washington, DC 20515

The Honorable Spencer Bachus
Ranking Member
House Financial Services Committee
2129 Rayburn House Office Building
Washington, DC 20515

RE: **Greater Oversight of HUD's Implementation of the 2005 Violence Against Women Act Housing Protections Is Required**

Dear Chairman Frank and Ranking Member Bachus:

On March 11, 2008, the House Finance Committee will hold an oversight hearing for the Department of Housing and Urban Development (HUD). On behalf of the American Civil Liberties Union (ACLU) and its more than half a million members and activists and 53 affiliates nationwide, we ask the Committee to examine HUD's implementation, or lack thereof, of the 2005 Violence Against Women Act ("VAWA") housing provisions as part of its mandate.

Through its Women's Rights Project, founded in 1972 by Ruth Bader Ginsburg, the ACLU has long been a leader in the legal battles to ensure women's full equality. In recent years, the ACLU has taken an active role at the local, state, and national levels in advancing the housing rights of survivors of domestic violence, sexual assault, and stalking by engaging in litigation, legislative and administrative advocacy, and public education.

Congress has recognized the importance of addressing the housing needs of victims of domestic violence, stalking, and dating violence. In its findings for the 2005 reauthorization of VAWA, Congress acknowledged that domestic violence is a primary cause of homelessness, that 92% of homeless women have experienced severe physical or sexual abuse at some point in their lives, and that victims of violence have experienced discrimination by landlords and often return to abusive partners because they cannot find long-term housing.[1]

**THE PROBLEM AND VAWA'S PROMISE**

The ACLU has represented a number of victims of violence who faced eviction because of the abuse perpetrated by their batterers.[2] For example:

- In 2001, the ACLU successfully represented Tiffani Alvera in a first of its kind lawsuit challenging a notice to quit issued by her subsidized housing provider in Oregon based on her husband's assault. Although Ms. Alvera had obtained a protection order barring her husband from the property and was cooperating in his criminal prosecution, her landlord nevertheless sought to evict her.

- In 2002, the ACLU of Michigan sued on behalf of Aaronica Warren, a single mother and then-VISTA volunteer who was living in public housing run by the Ypsilanti Housing Commission (YHC) in Michigan. After her ex-boyfriend forced his way into her apartment and assaulted her, YHC attempted to evict Ms. Warren and her son because of the violence that had occurred, even though Ms. Warren was the victim.

- In 2004, the ACLU represented Quinn Bouley, a Vermont resident who received a notice to quit her apartment after calling the police and reporting the domestic violence perpetrated by her husband, in a federal court action challenging her eviction.

- Also in 2004, the ACLU represented Laura K., a Michigan resident whose landlord locked her and her infant son out of her apartment at her batterer's request despite the order of protection she had barring him from coming near the home, thus rendering her homeless.

- In 2005, the ACLU represented Rubi Hernandez, who lived in California with her children in public housing operated by the Housing Authority of the City of Stanislaus. When her abusive estranged husband repeatedly physically attacked her, she sought an emergency transfer in an attempt to flee her husband. The housing authority initially refused the request, saying that although Ms. Hernandez had obtained a protective order and fled to a domestic violence shelter, she had not proven that she was in danger from her husband.

- Also in 2005, the ACLU represented Tina J., a resident of public housing operated by the St. Louis Housing Authority in St. Louis, Missouri. When Ms. J.'s ex-boyfriend broke her windows on multiple occasions because she refused to let him into her home, the Housing Authority attempted to evict Ms. J., despite the fact that she had obtained an order of protection against him and had consistently reported his unlawful behavior to the police and to the Housing Authority.

- In 2007, the ACLU sued on behalf of Tanica Lewis, a Michigan tenant of a property financed by the federal Low-Income Housing Tax Credit. Ms. Lewis had obtained an order of protection against her ex-boyfriend, but when he broke into her apartment in violation of the order, her landlord blamed her for the actions of her "guest."

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[1] 42 U.S.C. § 14043e.

[2] Information about our housing litigation on behalf of survivors of violence is available at www.aclu.org/fairhousingforwomen.

These stories demonstrate the unfortunate reality faced by many victims of domestic violence—landlords, including public housing authorities, all too often blame them for the abuse, re-victimizing them by threatening their housing.

VAWA 2005 took a multi-pronged approach to the problem.[3] The law barred public housing authorities and section 8 owners and landlords from discriminating against housing applicants or tenants based on status as a victim of domestic violence, stalking, or dating violence. Public housing and voucher tenants could no longer be evicted based on the criminal activity perpetrated against them by their batterers. Furthermore, public housing authorities were given the ability to "bifurcate" a victim's lease, thereby removing an abuser from tenancy while permitting the rest of the family to remain, and the ability to permit a voucher holder to move with her voucher to another unit before her prior lease term was up if necessary to ensure the voucher holder's safety. In order to implement these protections, the law provided a mechanism by which a tenant could certify that she had been a victim of one of these crimes and ensured that this certification would be confidential.

VAWA required public housing authorities to provide notice of VAWA's protections to public housing and voucher tenants, as well as voucher owners and managers. Congress also obligated public housing authorities to describe the programs provided to child and adult victims of domestic violence, dating violence, sexual assault, and stalking in the Annual and Five-Year Plans public housing authorities are required to submit to HUD.

**VAWA'S PROMISE REMAINS UNFULFILLED**

We applaud Congress for including these vital protections in VAWA 2005. However, more than two years later, the promise of the law has gone largely unfulfilled. We and our coalition partners strongly believe that oversight of HUD's implementation of VAWA is sorely needed.

We know that HUD (1) has failed to issue regulations or sufficient guidance to public housing authorities about the VAWA provisions; (2) has approved Annual and Five-Year Plans submitted by public housing authorities that do not address the needs of domestic violence survivors as required by statute; (3) and has distributed incorrect information about VAWA's applicability.

Many public housing authorities remain unaware of VAWA and have failed to train their staff or to give notice to tenants and voucher landlords about the availability of VAWA protections. Even those public housing authorities that have attempted, in good faith, to enforce VAWA's provisions cannot resolve certain issues that require direction from HUD and that would benefit from a consistent, national interpretation.

Without proper implementation of the law, we fear that discrimination against survivors of violence will continue, threatening both their housing and long-term safety. The ACLU continues to receive reports like those set forth above of unlawful conduct by housing authorities and landlords, many of whom operate both private and voucher-funded housing, from across the country. Like our coalition partners, the ACLU has advocated with local housing authorities to correct problems that arise in individual cases and to push for adoption of VAWA policies. However, such localized advocacy is insufficient to ensure nationwide compliance with the law.

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[3] Violence Against Women Act and Department of Justice Reauthorization Act of 2005, Pub. L. No. 109-162, §§ 601-607 (2006).

Thus, we call on the Committee to use its oversight powers over HUD to ensure VAWA implementation. HUD should be required to respond to the following questions:

- In the past, HUD has stated that it was planning to issue regulations implementing VAWA's protections, but none have been issued. What is the status of these regulations?

- Why has HUD approved Annual and Five-Year Plans submitted by public housing authorities that do not include statutorily required information, such as the programs that will enable the housing authority to serve the needs of child and adult victims of domestic violence, dating violence, and sexual assault?

- What is HUD doing to ensure that public housing authorities give the statutorily required notice to tenants, landlords, and owners and train their staff about tenants' rights under VAWA?

- Is HUD monitoring the number of public housing evictions and voucher terminations based on incidents of domestic violence, dating violence, and stalking and taking corrective action when wrongful evictions or terminations occur?

The VAWA 2005 housing protections attacked outdated modes of thinking that punished victims for the abuse they suffered. Until the promise of the law is put into practice, however, victims of violence will continue to face discrimination, fear, and danger as they seek to obtain and maintain secure and stable housing.

The ACLU looks forward to working with the Committee and HUD to ensure implementation of VAWA's important protections. Should you have any questions, please don't hesitate to call Vania Leveille at 202.715.0806 or vleveille@dcaclu.org.

Sincerely,

Caroline Fredrickson
Director
ACLU Washington Legislative Office

Vania Leveille
Legislative Counsel
ACLU Washington Legislative Office

Lenora M. Lapidus

Lenora Lapidus, Director
Emily J. Martin, Deputy Director
Sandra S. Park, Staff Attorney
ACLU Women's Rights Project

**MUNICIPAL BOND TURMOIL:**
**IMPACT ON CITIES, TOWNS, AND STATES**

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON
FINANCIAL SERVICES

MARCH 12, 2008

Statement of the

MUNICIPAL SECURITIES RULEMAKING BOARD

**Statement of the Municipal Securities Rulemaking Board**

**to the**

**U.S. House of Representatives**
**Committee on Financial Services**
**March 12, 2008**

## INTRODUCTION AND SUMMARY

The Municipal Securities Rulemaking Board ("MSRB" or "Board") appreciates the opportunity to submit a statement before the Committee addressing current issues concerning the municipal securities market. Part I provides a summary of the Board's structure, authority and rules. Part II provides background on the municipal securities market. Part III is a discussion of the MSRB's regulatory guidance and market initiatives, and specifically our recent initiatives responding to the auction rate securities and short-term municipal market crisis.

## I. BACKGROUND ON THE MSRB'S STRUCTURE, AUTHORITY AND RULES

### A. MSRB Structure

The MSRB is a self-regulatory organization ("SRO") established by Congress in the Securities Acts Amendments of 1975 to write rules with respect to transactions in municipal securities effected by brokers, dealers and municipal securities dealers (collectively "dealers"). The MSRB stands as a unique SRO for a variety of reasons. The MSRB was the first SRO specifically established by Congress. Also unique is the fact that the legislation, now codified in section 15B of the Securities Exchange Act ("Exchange Act"), dictates that the Board shall be composed of members who are equally divided among public members (individuals not associated with any dealer), individuals who are associated with and representative of banks that deal in municipal securities ("bank dealers"), and individuals who are associated with and representative of securities firms.[1] At least one public member serving on the Board must represent investors and at least one must represent issuers of municipal securities. Further, the MSRB was created as a product-specific regulator, unlike most other securities regulatory bodies.

Members of the Board meet periodically throughout the year to make policy decisions, approve rulemaking, information systems and review developments in the municipal securities market. Day-to-day operations of the MSRB are handled by a full-time professional staff. The operations of the Board are funded through assessments made on dealers for initial fees, annual fees, fees for underwritings and transaction fees.[2]

B. MSRB Authority

The substantive areas of the Board's rulemaking authority are described in Section 15B(b)(2) of the Exchange Act, which lists several specific purposes to be accomplished by Board rulemaking with respect to the municipal securities activities of dealers and provides a broad directive for rulemaking designed to:

> prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons

1 Under Board Rule A-3, the Board is composed of 15 membership positions, with five positions each for public, bank dealer and securities firm members.

2 These fees are set forth in Board Rules A-12 through A-14.

> engaged in regulating, clearing, settling and processing information with respect to and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

Like other SROs, the Board must file its proposed rule changes with the Securities and Exchange Commission ("SEC") for approval prior to effectiveness.

Although the Board was created to write rules that govern dealers' conduct in the municipal securities market, the Exchange Act directs that inspection of dealers for compliance with, and the enforcement of, Board rules be carried out by other agencies. For securities firms, the Financial Industry Regulation Authority ("FINRA"), along with the SEC, perform these functions. For bank dealers, the appropriate federal banking authorities, in coordination with the SEC, have this responsibility.[3] The use of existing enforcement authorities for inspection and enforcement of Board rules provides for an efficient use of resources. The Board works cooperatively with these enforcement agencies and maintains frequent communication to ensure that: (1) the Board's rules and priorities are known to examining officials; (2) general trends and developments in the market discovered by field personnel are made known to the Board; and (3) any potential rule violations are immediately reported to the enforcement agencies.

While Section 15B of the Exchange Act provides the Board with broad authority to write rules governing the activities of dealers in the municipal securities market, it does not provide the

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3 These federal banking authorities consist of the Federal Deposit Insurance Corporation, the U.S. Treasury Department's Office of the Comptroller of the Currency, the Office of Thrift Supervision and the Board of Governors of the Federal Reserve System, depending upon the specific bank dealer.

Board with authority to write rules governing the activities of other participants in the municipal finance market such as issuers and their agents (*e.g.*, independent financial advisors, trustees, bond counsel, etc.). Municipal securities also are exempt from the registration and prospectus delivery requirements of the Securities Act of 1933 and are exempt from the registration and reporting requirements of the Exchange Act.

In adopting Section 15B of the Exchange Act, Congress provided in subsection (d) specific provisions that restrict the Board and the SEC from regulating the disclosure practices of issuers in certain ways. Paragraph (1) of subsection (d) prohibits the Board (and the SEC) from writing rules that directly or indirectly (*i.e.*, through dealer regulation) impose a presale-filing requirement for issues of municipal securities. Paragraph (2) of subsection (d) prohibits the Board (but not the SEC) from adopting rules that directly or indirectly require issuers to produce documents or information for delivery to purchasers or to the Board. Paragraph (2), however, specifically allows the Board to adopt requirements relating to such disclosure documents or information as might be available from "a source other than such issuer." The provisions of subsection (d) commonly are known as the "Tower Amendment."

C. MSRB Rules Overview

The Board has adopted a substantial body of rules that regulate dealer conduct in the municipal securities market. In general, our rules are "principles-based" with specific guidance given where appropriate. We also seek to coordinate our rules with FINRA in cases where similar requirements make sense. MSRB rules address all of the subjects enumerated in Section 15B of the Exchange Act by Congress for Board action, including: recordkeeping, clearance and settlement, the establishment of separately identifiable departments within bank dealers, quotations, the professional qualification of persons in the industry and the arbitration of disputes.[4] The Board also adopted a number of rules in furtherance of the broad purposes of ensuring the protection of investors and the public interest. Among the most important of these are the Board's three primary customer protection measures—Rule G-17, on fair dealing, Rule G-19, on suitability, and Rule G-30, on fair pricing. These rules require dealers to observe the highest professional standards in their activities and relationships with customers.

Maintaining municipal market integrity is an exceptionally high priority for the Board as it seeks to foster a fair and efficient municipal securities market through dealer regulation. The Board engages in an on-going process of reviewing its rules and market practices to ensure that the Board's overriding goal of protecting investors and maintaining market integrity is not compromised by emerging practices.

D. Market Transparency and Surveillance/ Information Systems

In 2005, the MSRB implemented a facility for real-time transaction reporting and price dissemination of transactions in municipal securities (the "Real-Time Transaction Reporting System" or "RTRS").[5] RTRS serves the dual role of providing transaction price transparency to the marketplace, as well as supporting market surveillance by the enforcement agencies. Surveillance data is made available to regulators with authority to enforce MSRB rules, including FINRA and the SEC. The market surveillance function of the MSRB's transaction

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4 The Board's arbitration program was established in 1978. Because of the small number of cases filed with the Board and the agreement of FINRA to handle arbitration cases relating to municipal securities transactions brought by customers involving bank dealers as well as existing FINRA dealer members, the Board discontinued its arbitration program in 1998.

reporting system provides enforcement agencies with a powerful tool in enforcing the Board's fair pricing rules.

In its role as regulator for dealer conduct, the Board also operates information systems to help ensure that dealers can comply with MSRB rules by improving the flow of information in the market about municipal issues, and to ensure that the inspection and enforcement agencies have the necessary tools to do their work. The Municipal Securities Information Library ("MSIL") system collects primary market disclosure documents from underwriters and makes them available to the market and the general public. The MSIL system also accepts and disseminates certain secondary market information provided by municipal issuers and trustees. An improved information service is currently in development and is discussed further below.

## II. BACKGROUND ON THE MUNICIPAL SECURITIES MARKET

### A. Market Overview

When Section 15B of the Exchange Act was adopted in 1975, yearly issuance of municipal securities was approximately $58 billion. Much of this total represented general obligation debt, which reflected the simple, unconditional promise of a state or local government unit to pay to the investor a specific rate of interest for a specific period of time. The investors in these bonds tended to be commercial banks and property/casualty insurers interested in tax-exempt interest.

(. . . continued)
[5] The MSRB's transaction reporting rules require dealers to report transactions in municipal securities within 15 minutes of the time of trade execution instead of by midnight on trade date, as was previously required.

The municipal securities market has grown into a much larger and more complex market. Total municipal debt outstanding as of 2007 is approximately $2.57 trillion. Last year, a total of 12,486 long-term municipal securities issues were issued for a total par value of $249 billion of long-term bonds.

Approximately 47% of the municipal bonds issued in 2007 carried municipal bond insurance. While the market for insured municipal securities and auction rate securities has been impacted by the downgrading of monoline insurers, the credit quality of the underlying municipal securities has generally not been affected. Default rates in municipal securities remain exceedingly low. It should be noted that the municipal ratings scale is more conservative than the corporate ratings scale. The use of such parallel rating scales with different default risk characteristics can obscure the fiscal strength of municipal issuers, as many are strong credits even without insurance.

In the United States, there are approximately 80,000 state and local governments, about 60,000 of which have issued municipal securities. The market is unique among the world's major capital markets because the number of issuers is so large—no other direct capital market encompasses so many borrowers. The issues range from multi-billion dollar financings of large state and city governments to issues less than $100,000 in size, issued by localities, school districts, fire districts and various other issuing authorities. The purposes for which these securities are issued include not only financing for basic government functions, but also a variety of public needs such as transportation, utilities, health care, higher education and housing as well as some essentially private functions to enhance industrial development. In the last two decades debt issuance has become an important management tool for many municipalities, allowing flexibility in arranging finances and meeting annual budget considerations according to local needs and local priorities. The terms and features of municipal securities have evolved over time to meet a multitude of issuer borrowing and investment needs.

Issuers' budgetary and risk management needs have also lead to derivative transactions, especially interest rate swaps, becoming an increasingly common aspect of municipal finance. These derivative transactions are considered to be contractual arrangements and are not transactions in municipal securities, and therefore, MSRB does not have the authority to regulate dealer conduct in connection with derivative transactions. In addition, many non-regulated entities effect derivative transactions with municipal issuers, or advise municipal issuers with respect to these transactions.[6]

The municipal securities market has a significant retail orientation, with approximately 35 percent of municipal debt held by households directly and another approximately 35% through mutual funds. There is great diversity in the types of municipal securities that are issued today. Tax-exempt municipal securities are popular investments that offer a wide range of benefits, including income free from federal and, in some cases, state and local taxes; relative safety with regard to payment of interest and repayment of principal; and a wide range of choices

6 The Commodity Futures Modernization Act of 2000 clarified the status of OTC derivatives and hybrid instruments under U.S. commodities and securities laws. Among other things, it provides that swap agreements are not securities under the federal securities laws. Swap agreements that are based on securities prices, yields or volatilities are, however, subject to specific anti-fraud, anti-manipulation and anti-insider trading provisions of the federal securities laws as if they were securities. Neither the SEC nor the MSRB may, however, impose reporting or record keeping requirements or other prophylactic measures against fraud, manipulation or insider trading with respect to securities-based swap agreements.

to fit an investor's objectives with regard to credit quality, sector, maturity, choice of issuer, type of bond, and geographical location.

There are over 2,000 dealers registered with the MSRB to engage in municipal securities activities. These dealers range from large, securities firms with nationwide presence to small local shops. Approximately 500 of these dealers underwrite new issues.

B. Trading in Municipal Securities

Municipal securities are bought and sold in the over-the-counter market rather than on an organized exchange. Unlike the experience in the over-the-counter market for equity securities, there has been no evolution of firm, two-sided quotations or a formal market maker structure. In fact, a primary characteristic of the municipal securities market is the lack of any core group of issues that trade frequently and consistently over sustained periods of time. One reason for this is the "buy and hold" philosophy of most municipal securities investors. Another reason is that, for most issues, there is a very small or non-existent "float" of securities available to be the subject of trading. Making a market in a conventional sense is difficult, if not impossible, for these issues. In addition, the tax treatment of borrowing tax-exempt securities effectively prevents the "shorting" of an issue. The inability to manage risk in this fashion is a disincentive for making markets even in those issues where "float" might be available.

Another distinction between the municipal securities and the equity markets relates to the frequency of trading. In exchange-listed and NASDAQ markets, the continuous daily pattern of frequent trades in most stocks means that "last sale" transaction prices generally provide reliable information on market values for most stocks. However, "last sale" prices may not provide reliable indicators of market value for most municipal securities. One reason for this is that, even on the heaviest trading days, less than one percent of all outstanding municipal issues trade at all and most of those issues trade only once or twice during the day. Furthermore, MSRB transaction reporting data suggests that only about one-third of the total issues outstanding during a given year are traded even once at any time during that year.

## III. REGULATORY PRIORITIES AND GOALS

### A. Continuing Vigilance and Market Guidance

The Board continues to review and refine its rules and regulatory guidance in light of new products, changes in marketing practices and other developments. The Board has established as its goal the fostering and promoting of a fair and efficient municipal capital market. To help reach this goal, the Board seeks to exercise market leadership through rulemaking, publishing timely market guidance, providing mechanisms for information flows and adapting to changes in conditions. Recently the Board has taken a number of major actions to further its goal through these priorities and objectives.

### B. Market Leadership through Published Guidance

Cognizant of the recent downgrades of municipal bond insurers, ongoing credit agency reviews, the unprecedented number of "failed" auctions in the market for municipal Auction Rate Securities ("ARSs"), and other short-term liquidity concerns that have created extreme volatility in the short-term market, the MSRB has been actively involved in efforts to in efforts to protect investors and promote a fair and efficient market through difficult market conditions. The MSRB has met with federal and state officials and industry stakeholders to lend our expertise and help fashion appropriate responses. The Board reminded dealers that MSRB rules have always applied to ARSs and insured bonds and other short-term instruments and issued timely guidance to remind dealers of their obligations with respect to the investor protection rules applicable to transactions in such instruments.[7]

As discussed above, one of the most important MSRB investor protection rules is Rule G-17, which requires dealers to deal fairly with all persons and prohibits deceptive, dishonest, or unfair practices. A longstanding interpretation of Rule G-17 is that a dealer transacting with a customer[8] must ensure that the customer is informed of all material facts concerning the transaction, including a complete description of the security.[9] Disclosure of material facts to a customer under Rule G-17 may be made orally or in writing, but must be made at or prior to the time of trade. In general, a fact is considered "material" if there is a substantial likelihood that its disclosure would have been considered significant by a reasonable investor.[10]

As applied to customer transactions in insured municipal securities, the disclosures required under Rule G-17 include a description of the securities and identification of any bond insurance as well as material facts that relate to the credit rating of the issue. The recent MSRB

7 *See* Bond Insurance Ratings – Application of MSRB Rules, MSRB Notice 2008-04 (January 22, 2008); *See* Application of MSRB Rules to Transactions in Auction Rate Securities, MSRB Notice 2008-09 (February 19, 2008).

8 The word "customer" follows the definition in MSRB Rule D-9, which states that a "customer" is any person other than a dealer acting in its capacity as such or an issuer in transactions involving the sale by the issuer of a new issue of its securities.

9 *See, e.g.*, Notice Concerning Disclosure of Call Information to Customers of Municipal Securities (March 4, 1986), MSRB Manual (CCH) para. 3591.

10 *See, e.g.*, Basic v. Levinson, 485 U.S. 224 (1988).

notices served to remind dealers that disclosures required under Rule G-17 also may include material facts about the credit enhancement applicable to the issue.

MSRB guidance also reminded dealers that, in order to ensure all required disclosures are made under Rule G-17, a dealer must take into consideration information on underlying credit ratings[11] that is available in established industry sources (or information otherwise known to the dealer) and must incorporate such information when determining the material facts to be disclosed about the transaction.[12] The underlying rating (or the lack of an underlying rating)[13] may be relevant to a transaction when the credit rating of the bond insurer is downgraded or is the subject of information from the rating agency about a potential rating action with respect to the insurance company.

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11 In addition to the actual credit rating of a municipal issue, "underlying" credit ratings are assigned by rating agencies to some municipal securities issues. An underlying credit rating is assigned to reflect the credit quality of an issue independent of credit enhancements such as bond insurance.

12 *See, e.g.*, Interpretive Notice Regarding Rule G-17, on Disclosure of Material Facts, MSRB Notice (March 25, 2002) (hereinafter "March 2002 Notice"). The March 2002 Notice clarified that, in addition to the requirement to disclose material facts about a transaction of which the dealer is specifically aware, the dealer is responsible for disclosing any material fact that has been made available through sources such as the NRMSIR system, the Municipal Securities Information Library® (MSIL®) system, RTRS, rating agency reports and other sources of information relating to the municipal securities transaction generally used by dealers that effect transactions in the type of municipal securities at issue (collectively, "established industry sources"). The "NRMSIR system" refers to the disclosure dissemination system adopted by the SEC in SEC Rule 15c2-12.

13 The lack of a rating for a municipal issue does not necessarily imply that the credit quality of such an issue is inferior, but is information that should be taken into account when accessing material facts about a transaction in the security.

The MSRB is aware that Auction Rate Securities are often sold to individual investors, who may not have the same sophistication as institutional customers in understanding the features of complex securities. For this reason, the MSRB reminded dealers that it is particularly important for dealers to focus attention on the application of MSRB investor protection rules when effecting transactions in ARSs.

Dealers were reminded that the duty to disclose material facts to a customer in an Auction Rate Securities transaction includes the duty to give a complete description of the security, including features of the auction process that likely would be considered significant by a reasonable investor. Given the variety and complexity of Auction Rate Securities, there are a number of facts that may fall within this duty to disclose, including the duration of the interest rate reset period, information on how the "all hold" and maximum rates are determined, and other features of the security found in the official documents of the issue.[14] In light of recent events, it may be a material fact for an investor that an Auction Rate Security recently was subject to a failed auction. Of course, this does not represent an exhaustive list of facts that a dealer must consider as potentially material, since this may vary with individual securities and transactions.

The MSRB advised dealers to carefully focus on the application of MSRB Rule G-19 on the suitability of recommendations when making recommendations to customers in Auction Rate Securities. Rule G-19 provides that a dealer must consider the nature of the security as well as

[14] If the maximum rate is a formula linked to a particular securities market indicator, such as the London Interbank Offered Rate (LIBOR), the dealer's disclosure obligations may extend to a description of the material facts concerning the market indicator, as they relate to the Auction Rate Security.

the customer's financial status, tax status and investment objectives, based upon the facts disclosed by or otherwise known about the customer when making recommendations to customers. The dealer then must have reasonable grounds for believing that the recommendation is suitable for that customer.[15] Thus, among other factors, a dealer must consider both the liquidity characteristics of an Auction Rate Security and the customer's need for a liquid investment when making a suitability determination involving Auction Rate Securities.

The MSRB has also worked closely with the SEC to increase transparency in the ARS market and expects to release a notice requesting public comment on the types of information that investors and industry participants may find beneficial.

C. Establishment of EMMA

Consistent with the MSRB's long-standing policy to improve the flow of information in the municipal securities market, the MSRB has been diligently working to establish the Electronic Municipal Market Access system ("EMMA"), with an expected rollout of Summer of 2008. EMMA will be designed to serve as a comprehensive centralized source for primary market and continuing disclosure documents and transaction pricing data for the municipal securities market. EMMA will make such documents and information available on its free publicly accessible Internet website (the "EMMA portal") in a manner specifically tailored to retail investors. The EMMA portal will provide an easily navigable integrated display of

[15] In the case when a low maximum rate is set for failed auctions, there may be a high likelihood for continued failed auctions. In this case, dealers were reminded to consider the non-auction secondary market prices when recommending to a customer whether to purchase the Auction Rate Security through an auction or in the non-auction secondary market.

available primary market disclosures, secondary market disclosures and transaction pricing data for a specific security, incorporating detailed user help and investor education information designed to make the information easily understood by retail investors and offering a menu of optional alerts to provide users with notice of updates to posted information. Primary market disclosures, secondary market disclosures and transaction pricing data displayed on the public access portal also will be made available by the MSRB by subscription on terms that promote the broad dissemination of such documents and data throughout the marketplace.

When fully operational, EMMA will consist of three integrated information services:

- a primary market disclosure service for the receipt and dissemination of official statements ("OSs"), preliminary official statements ("POSs"), any amendments thereto, and related documents and information received by the MSRB from dealers acting as underwriters, their agents and other municipal market participants pursuant to MSRB rules and on a voluntary basis;

- a transparency service for the dissemination of real-time transaction price information and related information collected from dealers by the MSRB's RTRS pursuant to MSRB rules; and

- a continuing disclosure service for the electronic receipt and dissemination of continuing disclosure documents, any amendments thereto, and related documents and information to be received by the MSRB from issuers, obligated persons, their agents and other municipal market participants pursuant to continuing disclosure undertakings pursuant to Exchange Act Rule 15c2-12, any other continuing disclosure documents and information provided on a voluntary basis, and advance refunding documents ("ARDs"), amendments thereto, and related information received from underwriters and their agents.

The primary market and continuing disclosure documents and transaction pricing data for the municipal securities market freely available through EMMA will allow for more timely and accurate disclosures, valuations and information regarding municipal securities, which will benefit all industry stakeholders.

**CONCLUSION**

The MSRB will continue to monitor the municipal securities market as it further evolves to include more diversified and complex new structures and techniques, and as dealers, issuers, investors and others increasingly rely on new technologies. As it has in the past, the Board will remain vigilant and will not hesitate to modify its rules, publish guidance and develop information systems to deal with the ever-changing marketplace.

NAHRO
building communities together

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March 11, 2008

The Honorable Barney Frank
Chairman
Financial Services Committee
U.S. House of Representatives
Washington, DC 20515

The Honorable Spencer Bachus
Ranking Member
Financial Services Committee
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Frank and Ranking Member Bachus,

Thank you for holding today's oversight hearing on HUD's FY 2009 Budget. The 23,000 members of the National Association of Housing and Redevelopment Officials (NAHRO) look forward to working with you and the Committee to ensure that our nation's housing and community development needs are adequately addressed as part of the FY 2009 budget and appropriations process.

Following a detailed review of the Administration's 2009 budget presentation, we believe the request not only calls into question the underlying justification for critical program funding cuts in FY 2009, but also raises a more fundamental question regarding the administration's plans to address well-documented and long-deferred housing and community development needs. A full listing of NAHRO's funding recommendations to help address current needs is attached to this letter.

Housing has taken center stage of late as many families face foreclosure resulting from questionable, sub-prime lending practices. As the "first responders" to local housing needs, local housing agencies have already been called upon to assist families caught up in this crisis. Community development agencies are already searching for ways to help devastated neighborhoods to recover. Our members stand ready to continue to assist families and communities in need. Going forward, we welcome the opportunity to work with the Committee to design and later implement pragmatic responses to this crisis.

However, as the Committee is also well aware, the nation's housing and community development needs are much larger than the mortgage crisis we now face. Consider the fact that nearly 14 million American families face severe housing needs, paying over 50 percent of their incomes toward housing costs or living in substandard housing. In communities nationwide, families face daunting waits for scarce rental housing assistance. In fact, on any given night, nearly 750,000 people, many of them children, are homeless.

*In short, NAHRO believes that the administration's 2009 budget request, if adopted, would continue a pattern of large scale disinvestment in our nation's irreplaceable inventory of* *affordable housing and would undermine efforts to sustain vibrant communities by cutting or eliminating programs to revitalize our nation's community infrastructure.*

In recent years, we have made the committee aware of our questions and concerns regarding significant funding reductions contemplated in affordable housing and community development programs. These questions are raised once again by the President's FY 2009 proposal. Going forward, we believe the larger question before the Congress is: what resources are necessary to sustain current levels of assistance to families and communities, and how as a nation do we begin to make progress toward addressing unmet needs? For example, how will we preserve 1.1 million units of public housing, renew all vouchers, maintain vital community and economic development services, and address the millions waiting for some form of assistance to secure decent housing? These are the questions your Committee, along with your colleagues on the Budget and Appropriations Committees in both houses, must, in our opinion, resolve to address.

Among the more striking examples found in this budget which we believe to be emblematic of the challenges and concerns noted above is the administration's request for basic public housing operations. The Department's own budget justification states that $5.3 billion is necessary to subsidize the 1.1 million families living in public housing, yet its budget request inexplicably asks for just $4.3 billion. We believe that the rationale for this and other contradictions in the budget request is best explained by the Administration and we hope that more will be learned during your hearing. It is safe to say, however, that the FY 2009 budget request, which would fund local agencies' public housing operations at just 81 percent of need, would constrain local agencies' ability to administer public housing in a responsible way and, as a result, underserve those most in need. In sum, we believe this budget denies residents the quality of life in public housing that they deserve.

There are several additional recommendations in this budget request that merit reversal. For example:

- **Disinvestment in Public Housing Infrastructure:** The budget proposes $2.024 billion for the Capital Fund, a $415 million (17 percent) decrease compared with the amount provided by Congress for FY 2008 ($2.438 billion). This recommendation has been put forward for the second year in a row despite the fact that the HUD's own estimates of long term deferred maintenance are between $18 and $20 billion dollars.

- **No Disaster Planning for Public Housing**: Within the Capital Fund account, the budget does not request funding for public housing disaster relief. The budget narrative states that "FEMA disaster assistance is available for any needs that are not covered by the required property insurance." Despite HUD's assertion, however, disaster assistance from FEMA for PHAs has not been forthcoming in recent years. Differing HUD and FEMA interpretations of the agencies' Memorandum of Understanding (MOU) have meant that neither agency has stepped in to provide the funding necessary in a major disaster, save HUD's limited allocation of emergency capital funds.

- **HOPE VI Eliminated**: The President's budget proposes, once again, to zero out funding for the HOPE VI program. Instead, the administration intends to spend out the "remaining balance" in the program, which amounts to more than "$1.4 billion as of the end of 2006." Except for unawarded grants from FYs 2007 and 2008, however, this $1.4 billion is already committed to previously awarded grants. It is not available for new projects and awards as the administration seems to imply.

- **Deep Reductions in CDBG Formula Grants**: The President's FY 2009 proposal would fund Community Development Block Grant formula grants at $2.934 billion, a $659 million (18 percent) cut. This proposed cut is actually $865 million (24 percent) if one considers the administration's unrealistic proposal to offset FY 2009 funding by rescinding $206 million in prior-year, special-purpose grants. Amounts available to local communities would be further reduced if Congress adopted the Administration's proposal to set-aside $200 million of the remaining CDBG funding to support competitive "challenge grants" for communities pursuing targeted neighborhood revitalization.

- **Elimination of Economic Development Programs**: The budget proposes to eliminate the Section 108 Community Development Loan Guarantee program, the Brownfields Economic Development Initiative (BEDI), and the Rural Housing and Economic Development (RHED) program, arguing that "these programs are duplicative" and that "their activities are eligible to be funded by CDBG and other federal programs." Because they are valuable components of the federal community and economic development toolkit and should remain available to states and localities, NAHRO has consistently called upon Congress to fully fund HUD's economic development programs. The Section 108 program, for example, allows an entitlement community to borrow up to five times the amount of its most recent CDBG formula allocation in order to finance large-scale physical improvement projects. HUD's own Office of Community Planning and Development, during a recent briefing for public interest groups, suggested that the Section 108 program could be valuable to communities as a "source of funding to address problems created by the sub prime crisis" noted above. All three programs received funding under the FY 2008 omnibus appropriations act.

- **Insufficient Housing Voucher Assistance**: HUD's budget assumes $14.161 billion in FY 2009 appropriated funds for rental housing assistance voucher renewals, to be augmented by $600 million in agencies' net restricted assets, for a total of $14.8 billion. NAHRO's preliminary estimate is that $15.4 billion will be needed to support the voucher program in FY 2009. When compared with PHAs' voucher expenditures in calendar year 2008, HUD's budget request would leave the program significantly under funded at levels insufficient to cover inflation, let alone the renewal of approximately 14,000 incremental vouchers appropriated in FY 2008.

- **Underfunding Effective Administration of the Voucher Program**: HUD's budget request includes $1.4 billion for Housing Choice Voucher administrative fees, including $1.34 billion for ongoing fees of existing vouchers and up to $40 million for PHAs that need additional funding to administer new vouchers in FY 2009. The nominal increases in these accounts, however, will be insufficient to fully pay for needs for both ongoing and new vouchers, leading to likely downward prorations of administrative fees. Without sufficient funding for administration, local agencies will not be able to maximize the efficiency of available rental assistance dollars, will not be able to maintain program integrity, and will not be able to provide families with the services and support necessary to find appropriate housing.

- **Short-funding Project-Based Section 8 Contracts:** HUD's budget would provide $7 billion for the Section 8 project-based multi-family housing program for FY 2009, representing a $682 million increase (10.8 percent). In addition to the $7 billion, the budget proposes a $400 million advance appropriation, which would become available on Oct. 1, 2009, to bridge renewal funding into FY 2010. Recent HUD estimates of the amount needed to fully fund renewals for the full twelve-months of the contract term rather increments through September 30, 2009, have cited the need as $8.1 billion. NAHRO is concerned that the short-funding of contracts as proposed by the Department may increase owner uncertainty and hasten the loss of affordable housing.

Taken together, the budget request provides no assurance that well-documented housing and community development concerns will be resolved in FY 2009. This, in our opinion, places our invaluable affordable housing infrastructure at risk and thwarts our ability to undertake necessary revitalization of our neighborhoods and communities. Some will contend that larger, unrelated budget pressures necessarily limit funding for these accounts. However, those familiar with the nation's housing and community development assets fear that we will pay an even greater price for years of disinvestment in this infrastructure if we fail to recognize the economic downside of our inaction and continue to underfund these accounts.

Our public housing stock represents a seventy-year commitment to provide decent, safe, and affordable housing in this country. Local housing agencies, with few exceptions, preserve this inventory in a responsible and cost-effective manner. However, this is an older inventory that, like any other form of real estate, will deteriorate if its needs are unmet. The longer these needs are unaddressed, the more the cost of repairing the infrastructure grows. If let go too long, the price tag to sustain this inventory will become too great a burden on the federal budget. At that point, absent a plan to provide new affordable housing, families will, quite possibly, be displaced.

NAHRO, in addition to leading the fight for funding to meet current needs, has advanced several reform recommendations that we believe can help preserve our current affordable housing inventory in a cost-effective manner. We have offered a pilot proposal to convert public housing developments to project based Section 8 assistance in the context of the SEVRA bill. We believe that the pilot proposal can better position this inventory for private sector recapitalization. We have also developed a reform-oriented proposal to preserve public housing using low income housing tax credits. We look forward to the opportunity to work with you to advance these new proposals while working with Congress as a whole to maintain adequate and necessary funding for current programs. We hope you will call upon us.

Thank for this opportunity to outline our concerns and advance our recommendations on the FY 2009 HUD budget.

Sincerely,

Saul N. Ramirez Jr.
Executive Director

Attachment

| NAHRO FY 2009 Funding Recommendations | | | |
|---|---|---|---|
| Program ($ in Millions) | '08 Enacted | '09 Proposed | NAHRO Recommendation[a] |
| Public Housing Operating Fund | $4,200 | $4,300 | $5,300[b] |
| Elderly & Disabled Service Coordinators | [$15] | [$16] | $50 |
| Public Housing Capital Fund | $2,439 | $2,024 | $3,500 |
| Resident Opportunity & Supportive Services | [$40] | [$38] | $55 |
| HOPE VI | $100 | $0 | $800 |
| Safety & Security | $0 | $0 | $310 |
| Tenant-Based Rental Assistance (Sec 8 Vouchers), Total | $16,391c | $15,881[c] | |
| Housing Asst. Payments | [$14,695] [c] | [$14,161] [c] | $15,400[d] |
| Admin Fees | [$1,351] | [$1,400] | $1,540 |
| FSS Coordinators | [$49] | [$48] | $72 |
| Tenant Protection Vouchers and Administration | [$200] | [$150] | Fully Fund |
| Project-Based Section 8 | $6,382 | $7,000 | Fully Fund |
| Community Development Fund | $3,866 | $3,000[e] | |
| Community Development Block Grant formula grants | [$3,593] | [$2,934] [e] | $4,500 |
| Brownfields | $10 | $0 | $25 |
| Rural Housing/Econ. Dev. | $17 | $0 | $25 |
| Sec. 108 Loan Guarantees | $5 | $0 | $7 |
| HOME | $1,704 | $1,967 | |
| HOME Formula Grants | $1,628 | $1,901 | $2,000 |
| ADDI set-aside in HOME | [$10] | [$50] | |
| HOPWA | $300 | $300 | $300 |
| Homeless Assistance Grants | $1,586 | $1,636 | At least $1,636[f] |
| Affordable Housing Production | | | $1,000[g] |

a NAHRO requests are for stand-alone programs only. Blank indicates no position.

b Reflects the administration's own estimate of need.

c TBRA figures displayed on a program-year basis, consistent with appropriations bill language. HUD documents display figures on a fiscal year basis, which blends program years.

d Renewal of existing and incremental vouchers based on 2007 calendar year voucher leasing and cost data through September 30, 2007, inflated by blended BLS Consumer Price Index, Urban (CPI-U), Rent of Primary Residence component. Assumes a 96% utilization rate.

e The President's budget nominally requests $3.000 billion for the CD Fund for FY 2009. However, it offsets this amount by presuming the cancellation of $206 million in FY 2008 Economic Development Initiatives and other earmarks within the fund. The combination of the request and rescission results in a net FY 2008 appropriations request of just $2.794 billion for the CD Fund.

f NAHRO's proposed funding level for Homeless Assistance Grants is for existing McKinney-Vento programs and does not include the administration's proposed $50 million set-aside for the Samaritan Initiative.

g Affordable Housing Production should be derived from sources other than appropriations if possible.

Mr. Ellison #1

Project-Based Section 8 Contracts

Question: If a project-based Section 8 contract is terminated, including a non-renewal or opt-out by the owner, HUD is required to transfer any budget authority remaining in the contract to another contract. 42 USC § 1437f (bb)(1) (also known as Section 8 (bb) (1) of the U.S. Housing Act). This can result in significant funding getting reused in the case of long term section 8 contracts which still remain. By letter of May 29, 2007 (attached) , the Minnesota Housing Finance Agency asked HUD to exercise this legal authority to transfer remaining contract funds on several expiring Minnesota contracts to other properties in Minnesota. In reply on December 10, 2007 (attached), HUD declined to use its discretion to transfer funds to other Minnesota properties. In addition, however, HUD appeared to be making two other points which raise questions. One, HUD suggests that annual rescission requirements imposed by Congress take precedence over the fund transfer requirements of sec. 8 (bb). Two, HUD believes that transferring assistance to another project would be "double subsidizing the unit." In light of this, it is not clear when and under what circumstances HUD is complying with sec. 8 (bb).

Please provide any field guidance which has been made available to HUD staff on the application of sec. 8(bb).

Answer: The Department has not issued any field guidance on the application of Section 8 (bb). The Department reviews Section 8 recaptures and transfers at the Headquarters level. The Department must take into account the immediate funding needs of the entire Section 8 inventory, and any annual rescission requirements.

Mr. Ellison #2

Project-Based Section 8 Contracts

Question: Does HUD apply sec. 8 (bb) in order to transfer remaining contract budget authority in the case of owner opt-outs ? If HUD docs not do so, or does not do so in all cases, please explain.

Answer: No, the Department does not apply Section 8 (bb) in the case of opt-outs.

When an owner opts out of the project-based Section 8 contract, the Department is required to provide enhanced Section 8 vouchers to all eligible residents enabling the residents to continue to be provided rental assistance so that the residents can continue to reside at the project.

If we were also to utilize the remaining budget authority under the Section 8 (bb) authority to subsidize a new unit (not a unit previously assisted by a Section 8) in addition to providing rental assistance to the unit of the project where the owner opted out, the Department would be providing rental assistance to two units.

Mr. Ellison #3

Project-Based Section 8 Contracts

Question: How do recent rescission requirements interrelate with sec. 8 (bb) transfer requirements? If rescission requirements recapture certain designated funding as of the time of the rescission enactment, it would appear that contracts which had terminated earlier in the year should have already had sec. 8 (bb) applied to them, resulting in contract balance transfers which would now be unaffected by the rescission.

Answer: Under the Department's recapture methodologies, there is typically one recapture process, during which all recapture-able balances on all contracts are collected. The Department does not conduct separate recaptures for contracts that terminate earlier in the year. Budget Authority recaptured through the yearly recapture process is pooled together and subject either to re-use on another Section 8 HAP contract or rescission. Although some recaptures are transferred to other contracts as required by Section 8 (bb), once the funding is pooled, there is no way to differentiate what funds are applied to the rescission requirement or reused on another contract.

Mr. Ellison #4

Project-Based Section 8 Contracts

Question: What has happened to the remaining contract balances on the section 8 opt-out properties that were the subject of the MHFA's letter to HUD dated May 29, 2007?

Answer: There were 10 contracts referenced in the May 29, 2007 letter which expired in the period 2003 through 2005. Under the Department's recapture methodologies, there is recapture of any remaining balances on those contracts along with balances from all other contracts in a similar status. Budget Authority recaptured through this process is pooled together and subject either to re-use on another Section 8 HAP contract or rescission. Once the funding is pooled, there is no way to differentiate what funds are applied to the rescission requirement or reused on another contract.

O