

## Fiscal Year 2019 General Provisions

This document summarizes the General Provisions (GPs) in the FY 2019 Budget relative to the fiscal Year 2017 Enacted GPs.

**SEC. 201.** *SECTION 8 SAVINGS. —Section 1012(b) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 1437f note) is amended to read as follows:*

"Fifty percent of the amounts of budget authority, or in lieu thereof 50 percent of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 1437 note) shall be cancelled or in the case of cash, shall be remitted to the Treasury, and such amounts of budget authority or cash recaptured and not cancelled or remitted to the Treasury shall be used by State housing finance agencies or local governments or local housing agencies with projects approved by the Secretary of Housing and Urban Development for which settlement occurred after January 1, 1992, in accordance with such section. Notwithstanding the previous sentence, the Secretary may award up to 15 percent of the budget authority or cash recaptured and not cancelled or remitted to the Treasury to provide project owners with incentives to refinance their project at a lower interest rate."

**Explanation of this Section:** This section governs the sharing of savings that result from refunding the existing bonds for certain Section 8 contracts. Section 1012 of the McKinney Act requires HUD to split the savings evenly between Treasury and State Housing Finance Agencies. These savings typically take the form of a cash rebate from the bond trustee to the U.S. Treasury. Trustee sweeps continue for the term of the contract. HAP contracts were originally for 30 years with some 40-year contracts set to expire in 2024. The savings provided to State Housing Finance Agencies can be used for social services, for professional services essential to carry out McKinney-funded activities, project facilities or mechanical systems, and office systems.

**Proposed Action:** The President's Budget proposes retaining this section with a technical modification to permanently codify this long-standing general provision into law.

**SEC. 202.** None of the amounts made available under this Act may be used during fiscal year [2017]2019 to investigate or prosecute under the Fair Housing Act any otherwise lawful activity engaged in by one or more persons, including the filing or maintaining of a nonfrivolous legal action, that is engaged in solely for the purpose of achieving or preventing action by a Government official or entity, or a court of competent jurisdiction.

**Explanation of this Section:** This section makes clear that the Department will not use its authority under the Fair Housing Act to investigate or prosecute legal activity.

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**Proposed Action:** The President's Budget proposes retaining this provision for fiscal year 2019.

**[SEC. 203.** Subsection (c) of section 854 of the AIDS Housing Opportunity Act (42 U.S.C. 12903(c)) is amended—  
(1) in subclause (I) of paragraph (2)(A), by redesignating the subclause as clause "(i)"; and  
(2) in subparagraph (D) of paragraph (2), to read as follows:

“(D) ADJUSTMENT TO GRANTS.—For each of fiscal years 2017, 2018, 2019, 2020, and 2021, with respect to a grantee that received an allocation in the prior fiscal year, the Secretary shall ensure that the grantee's share of total formula funds available for allocation does not decrease more than 5 percent nor gain more than 10 percent of the share of the total available formula funds that the grantee received in the preceding fiscal year.”.]

**Explanation of this Section:** This provision made a one-time fix to the AIDS Housing Opportunity Act.

**Proposed Action:** The President's Budget proposes deleting this section.

**SEC. [204] 203.** Except as explicitly provided in law, any grant, cooperative agreement or other assistance made pursuant to title II of this Act shall be made on a competitive basis and in accordance with section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545).

**Explanation of this Section:** This provision requires that HUD funds be subject to competition unless specified otherwise in statute.

**Proposed Action:** The President's Budget proposes retaining this section.

**SEC. [205] 204.** *GNMA AMENDMENT.—Section 7 of the Department of Housing and Urban Development Act (42 U.S.C. 3535) is amended by adding at the end the following new subsection:*

*“(u) Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of the Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Federal Reserve banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811–1).”.*

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**Explanation of this Section:** This provision makes limitations on administrative expenses inapplicable to certain expenditures of Ginnie Mae, including legal services contracts and the expenses of carrying out its programmatic duties. This provision ensures that administrative expenses provided in annual appropriations bills do not preclude Ginnie Mae's reliance upon its permanent, indefinite appropriation, in Section 1 of the National Housing Act, for essential operating funds.

**Proposed Action:** The President's Budget proposes retaining this section with a technical modification to permanently codify this general provision into law.

**[SEC. 206.** Unless otherwise provided for in this Act or through a reprogramming of funds, no part of any appropriation for the Department of Housing and Urban Development shall be available for any program, project or activity in excess of amounts set forth in the budget estimates submitted to Congress.]

**Explanation of this Section:** This provision forbids HUD from spending more money on any program than the agency proposed in the budget estimates, unless a different amount is appropriated or provided in a reprogramming.

**Proposed Action:** The President's Budget proposes deleting this provision because it is redundant with the Antideficiency Act.

**SEC. [207] 205.** Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of such Act as may be necessary in carrying out the programs set forth in the budget for [2017]2019 for such corporation or agency except as hereinafter provided: *Provided,* That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

**Explanation of this Section:** This provision is an authorization by which Congress implements its responsibilities under section 104 of the Government Corporations Control Act (31 U.S.C. 9104). After consideration of Ginnie Mae's budget program, as submitted by the President, Congress, through this section, ratifies such budget program and authorizes

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expenditures of funds, both provided in the appropriations act (for salaries and expenses) and by the permanent indefinite appropriation in Section 1 of the National Housing Act, necessary to carry out the programs set forth in Ginnie Mae's program budget for the coming year.

**Proposed Action:** The President's Budget is proposing to retain this provision.

**[SEC. 208.** The Secretary of Housing and Urban Development shall provide quarterly reports to the House and Senate Committees on Appropriations regarding all uncommitted, unobligated, recaptured and excess funds in each program and activity within the jurisdiction of the Department and shall submit additional, updated budget information to these Committees upon request.]

**Explanation of this Section:** This provision requires HUD to submit quarterly reports on status of funds.

**Proposed Action:** The President's Budget proposes to exclude this provision.

**[SEC. 209.** The President's formal budget request for fiscal year 2018, as well as the Department of Housing and Urban Development's congressional budget justifications to be submitted to the Committees on Appropriations of the House of Representatives and the Senate, shall use the identical account and sub-account structure provided under this Act.]

**Explanation of this Section:** This provision requires the Department to structure its budget request and congressional justifications in an identical way to the structure of the Appropriations Act.

**Proposed Action:** The President's Budget proposes to exclude this provision. The Administration will continue to determine the account structure of the President's Budget and congressional justifications.

**[SEC. 210.** No funds provided under this title may be used for an audit of the Government National Mortgage Association that makes applicable requirements under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).]

**Explanation of this Section:** This provision prohibits use of GNMA funds for certain audit activities.

**Proposed Action:** The President's Budget proposes excluding this provision.

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### **SEC. [211] 206. TRANSFERS OF ASSISTANCE, DEBT, AND USE RESTRICTIONS. —**

(a) *AUTHORITY.*—Notwithstanding any other provision of law, subject to the conditions listed under this section, for fiscal years [2017]2019 and [2018]2020, the Secretary of Housing and Urban Development may authorize the transfer of some or all project-based assistance, debt held or insured by the Secretary and statutorily required low-income and very low-income use restrictions if any, associated with one or more multifamily housing project or projects to another multifamily housing project or projects.

(b) *PHASED TRANSFERS.*—Transfers of project-based assistance under this section may be done in phases to accommodate the financing and other requirements related to rehabilitating or constructing the project or projects to which the assistance is transferred, to ensure that such project or projects meet the standards under subsection (c).

(c) *CONDITIONS.*—The transfer authorized in subsection (a) is subject to the following conditions:

(1) Number and bedroom size of Units.—

(A) For occupied units in the transferring project: The number of low-income and very low-income units and the configuration (i.e., bedroom size) provided by the transferring project shall be no less than when transferred to the receiving project or projects and the net dollar amount of Federal assistance provided to the transferring project shall remain the same in the receiving project or projects.

(B) For unoccupied units in the transferring project: The Secretary may authorize a reduction in the number of dwelling units in the receiving project or projects to allow for a reconfiguration of bedroom sizes to meet current market demands, as determined by the Secretary and provided there is no increase in the project-based assistance budget authority.

(2) The transferring project shall, as determined by the Secretary, be either physically obsolete or economically nonviable.

(3) The receiving project or projects shall meet or exceed applicable physical standards established by the Secretary.

(4) The owner or mortgagor of the transferring project shall notify and consult with the tenants residing in the transferring project and provide a certification of approval by all appropriate local governmental officials.

(5) The tenants of the transferring project who remain eligible for assistance to be provided by the receiving project or projects shall not be required to vacate their units in the transferring project or projects until new units in the receiving project are available for occupancy.

(6) The Secretary determines that this transfer is in the best interest of the tenants.

(7) If either the transferring project or the receiving project or projects meets the condition specified in subsection (d)(2)(A), any lien on the receiving project resulting from additional financing obtained by the owner shall be subordinate to any FHA-insured mortgage lien transferred to, or placed on, such project by the Secretary, except that the Secretary may waive this requirement upon determination that such a waiver is necessary to facilitate the financing of acquisition, construction, and/or rehabilitation of the receiving project or projects.

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(8) If the transferring project meets the requirements of subsection (d)(2), the owner or mortgagor of the receiving project or projects shall execute and record either a continuation of the existing use agreement or a new use agreement for the project where, in either case, any use restrictions in such agreement are of no lesser duration than the existing use restrictions.

(9) The transfer does not increase the cost (as defined in section 502 of the Congressional Budget Act of 1974, as amended) of any FHA-insured mortgage, except to the extent that appropriations are provided in advance for the amount of any such increased cost.

(d) DEFINITIONS.—For purposes of this section—

- (1) the terms "low-income" and "very low-income" shall have the meanings provided by the statute and/or regulations governing the program under which the project is insured or assisted;
- (2) the term "multifamily housing project" means housing that meets one of the following conditions—
  - (A) housing that is subject to a mortgage insured under the National Housing Act;
  - (B) housing that has project-based assistance attached to the structure including projects undergoing mark to market debt restructuring under the Multifamily Assisted Housing Reform and Affordability Housing Act;
  - (C) housing that is assisted under section 202 of the Housing Act of 1959, as amended by section 801 of the Cranston-Gonzales National Affordable Housing Act;
  - (D) housing that is assisted under section 202 of the Housing Act of 1959, as such section existed before the enactment of the Cranston-Gonzales National Affordable Housing Act;
  - (E) housing that is assisted under section 811 of the Cranston-Gonzales National Affordable Housing Act; or
  - (F) housing or vacant land that is subject to a use agreement;
- (3) the term "project-based assistance" means—
  - (A) assistance provided under section 8(b) of the United States Housing Act of 1937;
  - (B) assistance for housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of such Act (as such section existed immediately before October 1, 1983);
  - (C) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965;
  - (D) interest reduction payments under section 236 and/or additional assistance payments under section 236(f)(2) of the National Housing Act;
  - (E) assistance payments made under section 202(c)(2) of the Housing Act of 1959; and
  - (F) assistance payments made under section 811(d)(2) of the Cranston-Gonzalez National Affordable Housing Act;
- (4) the term "receiving project or projects" means the multifamily housing project or projects to which some or all of the project-based assistance, debt, and statutorily required low-income and very low-income use restrictions are to be transferred;
- (5) the term "transferring project" means the multifamily housing project which is transferring some or all of the project-based assistance, debt, and the statutorily required low-income and very low-income use restrictions to the receiving project or projects; and

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(6) the term "Secretary" means the Secretary of Housing and Urban Development.

(e) RESEARCH REPORT.—The Secretary shall conduct an evaluation of the transfer authority under this section, including the effect of such transfers on the operational efficiency, contract rents, physical and financial conditions, and long-term preservation of the affected properties.

**Explanation of this Section:** This provision allows the transfer of subsidy, debt and use restrictions from an obsolete multifamily project to a viable multifamily project under a variety of specified conditions.

**Proposed Action:** The Department proposes to retain this provision with changes to the dates.

**SEC. [212] 207.** (a) No assistance shall be provided under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) to any individual who—

(1) is enrolled as a student at an institution of higher education (as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002));

(2) is under 24 years of age;

(3) is not a veteran;

(4) is unmarried;

(5) does not have a dependent child;

(6) is not a person with disabilities, as such term is defined in section 3(b)(3)(E) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)(E)) and was not receiving assistance under such section 8 as of November 30, 2005; and

(7) is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible, to receive assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(b) For purposes of determining the eligibility of a person to receive assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), any financial assistance (in excess of amounts received for tuition and any other required fees and charges) that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except for a person over the age of 23 with dependent children.

**Explanation of this Section:** This provision clarifies the eligibility for assistance under section 8 of the United States Housing Act of 1937.

**Proposed Action:** The President's Budget proposes retaining this provision.

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**[SEC. 213.** The funds made available for Native Alaskans under the heading “Native American Housing Block Grants” in title II of this Act shall be allocated to the same Native Alaskan housing block grant recipients that received funds in fiscal year 2005.]

**Explanation of this Section:** This section would direct block grant funds awarded to each tribe to be allocated to those entities that received funding in fiscal year 2005.

**Proposed Action:** The President’s Budget proposes to exclude this provision because it is not supportive of tribal self-determination.

**SEC. [214] 208.** *CAP ON NUMBER OF HECM LOANS.—* [Notwithstanding the limitation in the first sentence of section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)), the Secretary of Housing and Urban Development may, until September 30, 2017, insure and enter into commitments to insure mortgages under such section 255.] *Section 255(g) of the National Housing Act (12 U.S.C.1715z-20(g)) is amended by striking "AUTHORITY—"and all that follows through "275,000." and inserting "AMOUNT.—".*

**Explanation of this Section:** This section removes the limitations placed on Home Equity Conversion Mortgages (HECMs) that can be insured by the FHA.

**Proposed Action:** The President’s Budget proposed to amend the provision to permanently remove the HECM cap.

**SEC. [215] 209.** Notwithstanding any other provision of law, in fiscal year [2017] *2019*, in managing and disposing of any multifamily property that is owned or has a mortgage held by the Secretary of Housing and Urban Development, and during the process of foreclosure on any property with a contract for rental assistance payments under section 8 of the United States Housing Act of 1937 or other Federal programs, the Secretary shall maintain any rental assistance payments under section 8 of the United States Housing Act of 1937 and other programs that are attached to any dwelling units in the property. To the extent the Secretary determines, in consultation with the tenants and the local government, that such a multifamily property owned or held by the Secretary is not feasible for continued rental assistance payments under such section 8 or other programs, based on consideration of (1) the costs of rehabilitating and operating the property and all available Federal, State, and local resources, including rent adjustments under section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 ("MAHRAA") and (2) environmental conditions that cannot be remedied in a cost-effective fashion, the Secretary may, in consultation with the tenants of that property, contract for project-based rental assistance payments with an owner or owners of other existing housing properties, or provide other rental assistance. The Secretary shall also take appropriate steps to ensure

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that project-based contracts remain in effect prior to foreclosure, subject to the exercise of contractual abatement remedies to assist relocation of tenants for imminent major threats to health and safety after written notice to and informed consent of the affected tenants and use of other available remedies, such as partial abatements or receivership. After disposition of any multifamily property described under this section, the contract and allowable rent levels on such properties shall be subject to the requirements under section 524 of MAHRAA.

**Explanation of this Section:** This section governs the use of project-based subsidy in connection with managing and disposing of multifamily properties.

**Proposed Action:** The President's Budget proposes retaining the provision for fiscal year 2019.

**[SEC. 216.** The commitment authority funded by fees as provided under the heading "Community Development Loan Guarantees Program Account" may be used to guarantee, or make commitments to guarantee, notes, or other obligations issued by any State on behalf of non-entitlement communities in the State in accordance with the requirements of section 108 of the Housing and Community Development Act of 1974: *Provided*, That any State receiving such a guarantee or commitment shall distribute all funds subject to such guarantee to the units of general local government in nonentitlement areas that received the commitment.]

**Explanation of this Section:** This provision allows States to use Section 108 on behalf non-entitlement communities.

**Proposed Action:** The President's Budget proposes excluding this section, as it does not include Section 108 Loan Guarantees or funding for the Community Development Block Grant Program in the fiscal year 2019 request.

**[SEC. 217.** Public housing agencies that own and operate 400 or fewer public housing units may elect to be exempt from any asset management requirement imposed by the Secretary of Housing and Urban Development in connection with the operating fund rule: *Provided*, That an agency seeking a discontinuance of a reduction of subsidy under the operating fund formula shall not be exempt from asset management requirements.]

**Explanation of this Section:** This section permits small PHAs with 400 or fewer units to elect not to operate under asset management.

**Proposed Action:** The President's Budget proposes excluding this provision because the Department does not support

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increasing the threshold for exemption.

**[SEC. 218.** With respect to the use of amounts provided in this Act and in future Acts for the operation, capital improvement and management of public housing as authorized by sections 9(d) and 9(e) of the United States Housing Act of 1937 (42 U.S.C. 1437g(d) and (e)), the Secretary shall not impose any requirement or guideline relating to asset management that restricts or limits in any way the use of capital funds for central office costs pursuant to section 9(g)(1) or 9(g)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437g(g)(1), (2)): *Provided*, That a public housing agency may not use capital funds authorized under section 9(d) for activities that are eligible under section 9(e) for assistance with amounts from the operating fund in excess of the amounts permitted under section 9(g)(1) or 9(g)(2).]

**Explanation of this Section:** This section prohibits the Department from imposing requirements or guidelines related to asset management that restricts or limits the use of capital funds for PHAs' central office/overhead costs.

**Proposed Action:** The President's Budget recommends excluding this provision. It is not necessary to repeat this provision since it was enacted to apply to "future Acts."

**SEC. [219] 210.** No official or employee of the Department of Housing and Urban Development shall be designated as an allotment holder unless the Office of the Chief Financial Officer has determined that such allotment holder has implemented an adequate system of funds control and has received training in funds control procedures and directives. The Chief Financial Officer shall ensure that there is a trained allotment holder for each HUD [sub-office] *appropriation* under the accounts "Executive Offices" and "Administrative Support Offices," as well as each account receiving appropriations [for] *under the general heading* "Program Office Salaries and Expenses", *and* "Government National Mortgage Association—Guarantees of Mortgage-Backed Securities Loan Guarantee Program Account" [and "Office of the Inspector General"] within the Department of Housing and Urban Development.

**Explanation of this Section:** This provision requires the OCFO to make sure that an adequate funds control system is in place and training on funds control procedures and directives has occurred for an official or employee before such official or employee is designated an allotment holder. It also requires the CFO to ensure that each office in the S&E accounts has a trained allotment holder.

**Proposed Action:** The President's Budget proposes retaining this provision with technical modifications. In addition, the President's Budget proposes to exclude the OIG from this requirement to allow that Office full independence over its financial management.

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**SEC. [220] 211.** The Secretary of the Department of Housing and Urban Development shall, for fiscal year [2017] 2019, notify the public through the Federal Register and other means, as determined appropriate, of the issuance of a notice of the availability of assistance or notice of funding availability (NOFA) for any program or discretionary fund administered by the Secretary that is to be competitively awarded. Notwithstanding any other provision of law, for fiscal year [2017]2019, the Secretary may make the NOFA available only on the Internet at the appropriate Government web site or through other electronic media, as determined by the Secretary.

**Explanation of this Section:** This provision requires the Department to publish notices of availability of assistance or funding availability for any program that is competitively awarded. The notices may be published on the Internet.

**Proposed Action:** The Department proposes retaining this provision with date changes.

**[SEC. 221.** Payment of attorney fees in program-related litigation shall be paid from the individual program office and Office of General Counsel salaries and expenses appropriations. The annual budget submission for the program offices and the Office of General Counsel shall include any such projected litigation costs for attorney fees as a separate line item request. No funds provided in this title may be used to pay any such litigation costs for attorney fees until the Department submits for review a spending plan for such costs to the House and Senate Committees on Appropriations.]

**Explanation of this Section:** This provision requires the Department to pay all program-related litigation attorney fees from individual personnel benefits accounts and to reflect costs on separate line items in the budget submission.

**Proposed Action:** The Department proposes excluding this provision due to implementation issues and objections raised by the Department of Justice.

**SEC. [222] 212.** The Secretary is authorized to transfer up to [10] 20 percent or [\$4,000,000] \$6,000,000, whichever is less, of funds appropriated for any office under the heading "Administrative Support Offices" or for any account under the general heading "Program Office Salaries and Expenses" to any other such office or account: *Provided*, That no appropriation for any such office or account shall be increased or decreased by more than [10] 20 percent or [\$4,000,000] \$6,000,000, whichever is less, without prior [written approval of] notification to the House and Senate Committees on Appropriations[: *Provided further*, That the Secretary shall provide notification to such Committees three business days in advance of any such transfers under this section up to 10 percent or \$4,000,000, whichever is less].

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**Explanation of this Section:** This provision gives the Secretary the authority to transfer a limited amount of funds, as needed, between accounts that provide for personnel and non-personnel expenses.

**Proposed Action:** The Department proposes retaining this provision with amendments. The increased transfer authority will allow the Department additional flexibility to efficiently make strategic realignments that support Administration priorities and emerging issues.

**SEC. [223] 213.** (a)(1) Any entity receiving housing assistance payments shall maintain decent, safe, and sanitary conditions *in good repair*, as determined by the Secretary of Housing and Urban Development (in this section referred to as the "Secretary"), and comply with any standards under applicable State or local laws, rules, ordinances, or regulations relating to the physical condition of any property covered under a housing assistance payment contract.

*(2) The requirements in this section shall apply to insured and noninsured projects with assistance attached to the units under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), but do not apply to such units assisted under section 8(o)(13) (42 U.S.C. 1437f(o)(13)) of such Act or to public housing units assisted with capital or operating funds under section 9 (42 U.S.C. 1437g) of such Act.*

(b) The Secretary [shall] *may* take action under subsection (c) when a multifamily housing project with a section 8 contract or contract for similar project-based assistance[—]:

(1) receives a Uniform Physical Condition Standards (UPCS) score of [60] *59* or less; [or]

(2) fails to certify in writing to the Secretary within 3 *business* days that all Exigent Health and Safety deficiencies identified by the inspector at the project have been corrected; *or*

*(3) fails to meet UPCS or local code requirements that establish standards for decent, safe, and sanitary housing.*

[Such requirements shall apply to insured and noninsured projects with assistance attached to the units under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), but do not apply to such units assisted under section 8(o)(13) (42 U.S.C. 1437f(o)(13)) or to public housing units assisted with capital or operating funds under section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g).]

(c)(1) [Within 15 days of the issuance of the REAC inspection] *If the Secretary decides to take action based on a deficiency listed in subsection (b)*, the Secretary must provide the owner with a Notice of Default with a specified timetable, determined by the Secretary, for correcting all deficiencies. The Secretary must also provide a copy of the Notice of Default to [the tenants,] the local government, any mortgagees, and any contract administrator. If the owner's appeal results in a UPCS score of 60 or above, the Secretary may withdraw the Notice of Default.

(2) At the end of the time period for correcting all deficiencies specified in the Notice of Default, if the owner [fails] *has failed* to fully correct such deficiencies, the Secretary may—

(A) require immediate replacement of project management with a management agent approved by the Secretary;

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(B) impose civil money penalties[, which shall be used solely for the purpose of supporting safe and sanitary conditions at applicable properties, as designated by the Secretary, with priority given to the tenants of the property affected by the penalty];

(C) abate or suspend payment on the section 8 contract, including partial abatement or suspension, as determined by the Secretary[, until all deficiencies have been corrected];

(D) pursue transfer of the project to an owner, approved by the Secretary under established procedures, which will be obligated to promptly make all required repairs and to accept renewal of the assistance contract as long as such renewal is offered;

(E) transfer the existing section 8 contract to another project or projects and owner or owners, as determined by the Secretary under established procedures, which will be obligated to promptly make all required repairs and to accept renewal of the assistance contract as long as such renewal is offered;

(F) pursue exclusionary sanctions, including suspensions or debarments from Federal programs;

(G) seek judicial appointment of a receiver to manage the property and cure all project deficiencies or seek a judicial order of specific performance requiring the owner to cure all project deficiencies;

(H) work with the owner, lender, or other related party to stabilize the property in an attempt to preserve the property through compliance, transfer of ownership, or an infusion of capital provided by a third-party that requires time to effectuate; or

(I) take any other regulatory or contractual remedies available, including abatement, suspension, or termination of the section 8 contract, as deemed necessary and appropriate by the Secretary.

[(d) The Secretary shall also take appropriate steps to ensure that project-based contracts remain in effect, subject to the exercise of contractual abatement remedies to assist relocation of tenants for major threats to health and safety after written notice to the affected tenants. To the extent the Secretary determines, in consultation with the tenants and the local government, that the property is not feasible for continued rental assistance payments under such section 8 or other programs, based on consideration of--

(1) the costs of rehabilitating and operating the property and all available Federal, State, and local resources, including rent adjustments under section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 ("MAHRAA"); and

(2) environmental conditions that cannot be remedied in a cost-effective fashion, the Secretary may contract for project-based rental assistance payments with an owner or owners of other existing housing properties, or provide other rental assistance.]

(d)(1) Any Notice of Default issued pursuant to subsection (c)(1) shall include a requirement that the owner provide a copy of the Notice of Default to each tenant.

(2) The Secretary shall ensure that the owner or its agents provide tenants an opportunity to comment on the physical condition and management of the property, and any needed repairs. The Secretary may provide the substance of these communications to the project owner to assist in its corrective opportunity.

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*(3) If the Secretary terminates the section 8 contract pursuant to subsection (c)(2), the Secretary shall provide tenants with a copy of any notice to the owner to that effect.*

(e) The Secretary shall report quarterly on all properties covered by this section that are assessed through the Real Estate Assessment Center and have UPCS physical inspection scores of less than 60 or have received an unsatisfactory management and occupancy review within the past 36 months. The report shall include—

(1) the enforcement actions being taken to address such conditions, including imposition of civil money penalties and termination of subsidies, and identify properties that have such conditions multiple times; *and*

(2) actions that the [Department of Housing and Urban Development] *Secretary* is taking to protect tenants of such identified properties[; and

(3) any administrative or legislative recommendations to further improve the living conditions at properties under a housing assistance payment contract].

**Explanation of this Section:** This general provision will enhance HUD's ability to exercise oversight within the PBRA program, allowing for HUD to mandate corrective action, contract transfers or change in management due to failure to meet physical condition standards. It makes minor edits and additions to increase the options available to the Secretary and clarify his role and responsibilities.

**Proposed Action:** The Department proposes retaining this provision with technical modifications.

**SEC. [224] 214.** None of the funds made available by this Act, or any other Act, for purposes authorized under section 8 (only with respect to the tenant-based rental assistance program) and section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), may be used by any public housing agency for any amount of salary, including bonuses, for the chief executive officer of which, or any other official or employee of which, that exceeds the annual rate of basic pay payable for a position at level IV of the Executive Schedule at any time during any public housing agency fiscal year [2017] *2019*.

**Explanation of this Section:** This provision establishes a cap on PHA personnel compensation tied to the Federal Executive Schedule pay scale.

**Proposed Action:** The President's Budget proposes to retain this provision for fiscal year 2019.

**[SEC. 225.** None of the funds in this Act may be available for the doctoral dissertation research grant program at the Department of Housing and Urban Development.]

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**Explanation of this Section:** This section prohibits the funds from being used for the doctoral dissertation research grant program.

**Proposed Action:** The President's Budget does not request any funding for this program, and proposes excluding this provision.

**[SEC. 226.** Section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v) is amended—

(1) in subsection (m)(1), by striking "fiscal year" and all that follows through the period at the end and inserting "fiscal year 2017."; and

(2) in subsection (o), by striking "September" and all that follows through the period at the end and inserting "September 30, 2017.".]

**Explanation of this Section:** This provision extends the authorization of appropriations and sunset provision in the HOPE VI statute through fiscal year 2017.

**Proposed Action:** The President's Budget excludes this provision and does not request funds for the HOPE VI or Choice Neighborhoods programs.

**[SEC. 227.** None of the funds in this Act provided to the Department of Housing and Urban Development may be used to make a grant award unless the Secretary notifies the House and Senate Committees on Appropriations not less than 3 full business days before any project, State, locality, housing authority, tribe, nonprofit organization, or other entity selected to receive a grant award is announced by the Department or its offices.]

**Explanation of this Section:** This section requires HUD to notify the House and Senate Committee on Appropriations at least 3 full business days prior to announcing a grant award.

**Proposed Action:** The President's Budget proposes excluding this provision.

**SEC. [228] 215.** [None of the funds made available by this Act maybe used] *The Secretary may elect, through notice, not to require or enforce the Physical Needs Assessment (PNA) for public housing units.*

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**Explanation of this Section:** Prohibits funds from being used to require or enforce the Physical Needs Assessment (PNA).

**Proposed Action:** The President's Budget proposes modifying this provision.

**[SEC. 229.** None of the funds made available by this Act nor any receipts or amounts collected under any Federal Housing Administration program may be used to implement the Homeowners Armed with Knowledge (HAWK) program.]

**Explanation of this Section:** This provision prohibits HUD from using appropriated funds to implement the Homeowners Armed with Knowledge, a program that would allow those agreeing to participate in housing counseling to pay a reduced mortgage insurance premium.

**Proposed Action:** The Department is not proposing the HAWK program and proposes excluding this provision.

**SEC. [230] 216.** None of the funds made available in this Act shall be used by the Federal Housing Administration, the Government National Mortgage Administration, or the Department of Housing and Urban Development to insure, securitize, or establish a Federal guarantee of any mortgage or mortgage backed security that refinances or otherwise replaces a mortgage that has been subject to eminent domain condemnation or seizure, by a State, municipality, or any other political subdivision of a State.

**Explanation of this Section:** Prohibits HUD from guaranteeing mortgages or mortgage-backed securities that refinance or otherwise replace mortgages that have been subject to eminent domain.

**Proposed Action:** The President's Budget proposes retaining this provision.

**[SEC. 231.** None of the funds made available by this Act may be used to terminate the status of a unit of general local government as a metropolitan city (as defined in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302)) with respect to grants under section 106 of such Act (42 U.S.C. 5306).]

**Explanation of this Section:** Prohibits funds from being used to terminate the status of a unit of local government as a metropolitan city, as defined under the CDBG program.

**Proposed Action:** The President's Budget proposes excluding this provision.

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**SEC. [232] 217.** Amounts made available under this Act which are either appropriated, allocated, advanced on a reimbursable basis, or transferred to the Office of Policy Development and Research in the Department of Housing and Urban Development and functions thereof, for research, evaluation, or statistical purposes, and which are unexpended at the time of completion of a contract, grant, or cooperative agreement, may be deobligated and shall immediately become available and may be reobligated in that fiscal year or the subsequent fiscal year for the research, evaluation, or statistical purposes for which the amounts are made available to that Office [subject to reprogramming requirements in section 405 of this Act].

**Explanation of this Section:** This provision allows funding for research, evaluation and statistical purposes that is unexpended at the completion of a contract, grant or cooperative agreement to be deobligated and reobligated for additional research, evaluation or statistical purposes.

**Proposed Action:** The President's Budget proposes including this provision with modification to more quickly address research and evaluation needed to support evidence-based policies.

**Sec. [233] 218.** [None of the funds provided in this Act or any other act may be used for awards, including performance, special act, or spot, for any employee of the Department of Housing and Urban Development who has been subject to administrative discipline in fiscal years 2016 or 2017, including suspension from work.] *Employees of the Department of Housing and Urban Development who are subject to administrative discipline in fiscal year 2019, including suspension from work, shall not receive awards (including performance, special act, or spot) for the remainder of fiscal year 2019 after the effective date of the disciplinary action.*

**Explanation of this Section:** This provision prohibits the Department from issuing performance awards to employees subject to administrative discipline.

**Proposed Action:** The President's Budget proposes technical modifications to this provision to support implementation.

**SEC. [239] 219. — RAD AMENDMENTS.**—The language under the heading Rental Assistance Demonstration in the Department of Housing and Urban Development Appropriations Act, 2012 (Public Law 112–55), *as amended by Public Law 113-76, Public Law 113-235, Public Law 114-113, and Public Law 115-31*, is amended—

(1) in the second proviso, by striking “2018” and inserting “2020”; and

(2) in the fourth proviso, by striking “185,000” and inserting “225,000”.]

(1) *in matter preceding the first proviso, by inserting the following before the colon: “(herein the “First Component”)”;*

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- (2) *in the second proviso, by striking "until September 30, 2018" and inserting "for fiscal year 2012 and thereafter";*
- (3) *by striking the fourth proviso;*
- (4) *in the thirteenth proviso, as reordered above, by—*
  - (A) *inserting "or nonprofit" before "entity, then a capable entity,"; and*
  - (B) *striking "preserves its interest" and inserting "or a nonprofit entity preserves an interest";*
- (5) *in the seventeenth proviso, as reordered above, by—*
  - (A) *inserting "or with a project rental assistance contract under section 202(c)(2) of the Housing Act of 1959," after "section 8(o) of the Act,";*
  - (B) *inserting "the subordination, restructuring, or both, of any documentation, including any note, mortgage, use agreement or other agreements evidencing or securing a capital advance previously provided by the Secretary under section 202(c)(1) of the Housing Act of 1959 as necessary to facilitate the conversion of assistance while maintaining the affordability period and the designation of the property as serving elderly persons, and" following "including but not limited to";*
  - (C) *inserting "or assistance contracts" after "for such vouchers"; and*
  - (D) *inserting the following before the colon: "(herein the "Second Component")";*
- (6) *by inserting the following proviso after the seventeenth proviso, as reordered above:*

*"Provided further, That conversions of assistance under the Second Component may not be the basis for re-screening or termination of assistance or eviction of any tenant family in a property participating in the demonstration and such a family shall not be considered a new admission for any purpose, including compliance with income targeting:";*
- (7) *in the nineteenth proviso, by striking "the previous proviso" and all that follows through the end of the proviso and inserting "the Second Component shall be available for project-based subsidy contracts entered into pursuant to the Second Component:";*
- (8) *in the twentieth proviso, by striking "the previous two provisos" and inserting "the Second Component, except for conversion of section 202 project rental assistance contracts,";*
- (9) *in the twenty-first proviso, by striking "the three previous provisos" and inserting "the Second Component, except for conversion of section 202 project rental assistance contracts,";*
- (10) *by inserting the following proviso before the twenty-first proviso:*

*"Provided further, That the Secretary may transfer amounts made available under the heading "Housing for the Elderly" to the accounts under the headings "Project-Based Rental Assistance" or "Tenant-Based Rental Assistance" to facilitate any section 202 project rental assistance contract conversion under the Second Component, and any increase in cost for "Project-Based Rental Assistance" or "Tenant-Based Rental Assistance" associated with such conversion shall be equal to amounts so transferred:"; and*
- (11) *in the twenty-third proviso, as reordered above, by striking "the previous four provisos" and inserting "the Second Component".*

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**Explanation of this Section:** This provision makes changes to the Rental Assistance Demonstration (RAD) Program

**Proposed Action:** The President's Budget proposes RAD amendments including elimination of the RAD unit cap, expansion to certain Section 202 properties, ensuring residents in the Second Component can't be rescreened upon re-entry (in alignment with the First Component), and aligning ownership requirements for foreclosures and LIHTC recapitalizations with other types of conversions.

**Sec. [234] 220.** Funds made available in this title under the heading "Homeless Assistance Grants" may be used by the Secretary to participate in Performance Partnership Pilots authorized under section 526 of division H of Public Law 113–76, section 524 of division G of Public Law 113–235, section 525 of division H of Public Law 114–113, section 525 of division H of Public Law 115-31, and such authorities as are enacted for Performance Partnership Pilots in an appropriations Act for fiscal year[s] 2017 2018 or 2019:*Provided*, That such participation shall be limited to no more than 10 continuums of care and housing activities to improve outcomes for disconnected youth].

**Explanation of this Section:** This provision adds Homeless Assistance Grants to the list of programs authorized to participate in the Performance Partnership Pilots for Disconnected Youth.

**Proposed Action:** The President's Budget proposes retaining this section.

**Sec. [235] 221.** With respect to grant amounts awarded under the heading "Homeless Assistance Grants" for fiscal year[s] 2015, 2016, and 2017] 2019 for the continuum of care (CoC) program as authorized under subtitle C of title IV of the McKinney-Vento Homeless Assistance Act, costs paid by program income of grant recipients may count toward meeting the recipient's matching requirements, provided the costs are eligible CoC costs that supplement the recipients CoC program.

**Explanation of this Section:** This provision would allow Homeless Assistance Grant recipients to count program income as an eligible match for 2019 CoC program funds.

**Proposed Action:** The Department proposes retaining this provision with date changes.

**[SEC. 237.** (a) Section 302 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822) is amended in subsection (e)—  
(1) in paragraph (1)—  
(i) by striking "handicapped" and inserting "persons with disabilities, or any 0-bedroom dwelling";

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- (ii) by inserting “or” after “expected to reside;”; and
  - (iii) by striking “less than 7 years of age” and inserting “under age 6”;
  - (2) in paragraph (2) by striking “; or” and inserting “.”; and
  - (3) by striking paragraph (3).
- (b) Section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851b) is amended in paragraph (27)—
- (1) by inserting “or any 0-bedroom dwelling” after “disabilities,”; and
  - (2) by deleting “housing for the elderly or persons with disabilities) or any 0 bedroom dwelling” and inserting “housing)”.
- (c) Section 401 of the Toxic Substances Control Act (15 U.S.C. 2681) is amended in paragraph (17)—
- (1) by inserting “or any 0-bedroom dwelling” after “disabilities,”; and
  - (2) by deleting “housing for the elderly or persons with disabilities) or any 0 bedroom dwelling” and inserting “housing)”.]

**Explanation of this Section** This provision updated the Lead-Based Paint Poisoning Prevention Act.

**Proposed Action:** This is a one-time provision so Department does not propose retaining this provision.

[**SEC. 238.** Section 211 of the Department of Housing and Urban Development Appropriations Act, 2008, is repealed.]

**Explanation of this Section:** This provision removes a reporting requirement.

**Proposed Action:** This is a one-time provision so Department does not propose retaining this provision.

### **SEC. 222. INFORMATION TECHNOLOGY FEE.**

(1) *FEE.— For a period of four years, as established by the Secretary in paragraph (3), notwithstanding any provision of law, and in addition to any other fees charged in connection with the provision of insurance under title II of the National Housing Act (hereafter referred to as “the Act”) (12 U.S.C. 1707 et seq.), the Secretary may charge and collect from each mortgagee a fee not to exceed \$25 per mortgage endorsed or submitted for insurance endorsement under title II of the Act except mortgages insured under section 255 of such title (12 U.S.C. 1715z-20).*

(2) *USE OF FEE.—Such fee collected shall be used as offsetting collections for part of the administrative contract expenses funding and information technology expenses funding provided under the Mutual Mortgage Insurance Program Account under title II of the Act, for the purpose of modernizing single-family technology systems and supporting the implementation of new practices for interaction with mortgagees.*

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*(3) IMPLEMENTATION. —The Secretary shall establish the amount of such fee through Mortgagee Letter or other administrative issuance after providing for public comment.*

**Explanation of this Section:** This provision provides the authority to charge lenders a fee that will be used to enhance information technology systems within Single Family. This fee will allow FHA to upgrade its IT infrastructure and better serve lenders and borrowers.

**Proposed Action:** The President's Budget proposes the addition of this provision in 2019.

**SEC. 223. HECM SPOUSAL SURVIVAL.** —*Section 255 of the National Housing Act (12 U.S.C. 1715z-20) is amended—*

*(1) in subsection (b)(2), by inserting before the period ", except that the term "mortgagor" shall not include the successors and assigns of the original borrower under a mortgage"; and*

*(2) in subsection (j), by amending that subsection to read as follows:*

*"(j) SAFEGUARD TO PREVENT DISPLACEMENT OF HOMEOWNER. —*

*"(1) In order for a mortgage to be eligible for insurance under this section, the mortgage shall provide that the obligation of the homeowner to satisfy the loan obligation is deferred until the death of the homeowner, the sale of the home, or the occurrence of other events specified in regulations of the Secretary.*

*"(2) The Secretary shall provide deferrals for non-borrowing spouses meeting the eligibility criteria prescribed by the Secretary. The Secretary may, within the Secretary's sole discretion, also provide for further deferrals.*

*"(3) Section 1647(b) of title 15 and any implementing regulations issued by the Board of Governors of the Federal Reserve System shall not apply to a mortgage insured under this section."*

**Explanation of this Section:** This provision would provide HUD with flexibility to establish how long an obligation to satisfy the HECM can be deferred. This provision gives the Department discretion to make deferrals and provides program flexibility to exempt lenders who would otherwise be required to immediately foreclose upon a living spouse.

**Proposed Action:** The President's Budget proposes adding this new provision.

**[SEC. 240.** The Secretary shall establish by notice such requirements as may be necessary to implement section 78001 of title LXXVIII of the Fixing America's Surface Transportation Act (Public Law 114-94), and the notice shall take effect upon issuance: *Provided*, That the Secretary shall commence rulemaking based on the initial notice no later than the expiration of the 6-month period following issuance of the notice and the rulemaking shall allow for the opportunity for public comment.]

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**Explanation of this Section:** This provision allows the Secretary to implement a provision of the FAST Act, which allowed families in certain situations to limit income reviews by PHAs.

**Proposed Action:** This is a one-time provision so Department does not propose retaining this provision.

**[SEC. 241.** For fiscal year 2017 and hereafter, the Secretary of Housing and Urban Development may use amounts made available for the Continuum of Care program under the “Homeless Assistance Grants” heading under this title to renew a grant originally awarded pursuant to the matter under the heading “Department of Housing and Urban Development—Permanent Supportive Housing” in chapter 6 of title III of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 122 Stat. 2351) for assistance under subtitle F of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C 11403 et seq.). Such renewal grant shall be awarded to the same grantee and be subject to the provisions of such Continuum of Care program except that the funds may be used outside the geographic area of the continuum of care.]

**Explanation of this Section:** This provision allows the Secretary to bring Permanent Supporting Housing Grantees under the Homeless Assistance Grants program.

**Proposed Action:** This is a one-time provision so Department does not propose retaining this provision.

**[SEC. 242.** Section 218(g) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12748(g)) shall not apply with respect to the right of a jurisdiction to draw funds from its HOME Investment Trust Fund that otherwise expired or would expire in 2016, 2017, 2018, or 2019 under that section.]

**Explanation of this Section:** This provision allows grantees to draw on their HOME funds even if they missed the 24-month commitment window.

**Proposed Action:** This enacted provision already applies to 2019, so Department does not propose retaining this provision.

**[SEC. 243.** None of the funds made available by this Act may be used by the Department of Housing and Urban Development to direct a grantee to undertake specific changes to existing zoning laws as part of carrying out the final rule entitled “Affirmatively Furthering Fair Housing” (80 Fed. Reg. 42272 (July 16, 2015)) or the notice entitled “Affirmatively Furthering Fair Housing Assessment Tool” (79 Fed. Reg. 57949 (September 26, 2014))]

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**Explanation of this Section:** This provision prevents HUD from directing grantees to make changes to zoning laws under the Affirmative Furthering Fair Housing rule.

**Proposed Action:** The Department does not propose retaining this provision.

### **SEC. 224. REPLACEMENT HOUSING EXCEPTION.—**

*(a) Section 8(o)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)), as amended by section 106 of the Housing Opportunity Through Modernization Act of 2016 (Public Law 114–201), is amended by—*

*(1) revising the second sentence of subparagraph (B)(ii) by inserting after "Secretary", ", or that qualify, as defined by the Secretary, as replacement units for such units,"; and*

*(2) revising subparagraph (D)(ii)(IV) by inserting after "Secretary", ", or that qualify, as defined by the Secretary, as replacement units for such units,".*

*(b) The Secretary may implement the changes in subsection (a) through notice, and in such case the changes will not take effect until the effective date of the notice.*

**Explanation of this Section:** This proposal amends the recently enacted HOTMA provision that allows certain formerly federally assisted projects to be exempt from the normally applicable project-based voucher PHA program cap and income-mixing requirements. This proposal allows HUD to provide PHAs with greater flexibility to use PBV new construction under this exception authority, such as allowing the PHA to receive the exemptions when constructing replacement PBV housing at a different site from the original project.

**Proposed Action:** The President's Budget proposes adding this new provision.

### **SEC. 225. SUPPORTIVE SERVICES INCOME-MIXING EXCEPTION.**

*(a) Section 8(o)(13)(D)(ii)(I) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)(D)(ii)(I)), as amended by section 106 of the Housing Opportunity Through Modernization Act of 2016 (P.L. 114–201), is amended by striking "of the project" and inserting in its place, "in the project's supportive service units".*

*(b) The Secretary may implement the changes in subsection (a) through notice, and in such case the changes will not take effect until the effective date of the notice.*

**Explanation of this Section:** Section 106(a)(3) of the Housing Opportunity Through Modernization Act of 2016 (HOTMA) recently amended section 8(o)(13)(D) of the United States Housing Act of 1937. Section 8(o)(13)(D) limits the number of units within a project that may receive project-based assistance to the greater of 25 units or 25 percent of the units in the

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project. There are several exceptions provided to this income mixing requirement, including an exception for units exclusively made available to households eligible for supportive services that are made available to the assisted residents of the project.

This proposal would amend the statute to provide that this exception applies for households eligible for supportive services that are made available for the supportive service units in the project, as opposed to requiring that services must be made available to all of the assisted families. Under this change, a project would be able to designate a certain number of units for supportive housing for persons with disabilities while also providing project-based voucher assistance in other units for very low-income families that would not need and would not be eligible for those supportive services.

**Proposed Action:** The President's Budget proposes adding this new provision.

**SEC. 226. RENT INCREASES.**—*For this fiscal year, the Secretary may elect through a Federal Register notice not to provide rent adjustments for properties receiving assistance under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013), section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), section 236(f)(2) of the National Housing Act (12 U.S.C. 1715z-1(f)(2)), or section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) other than the voucher program under section 8(o) and the moderate rehabilitation program under section 8(e)(2) (including the single room occupancy program authorized by title IV of the McKinney-Vento Homeless Assistance Act).*

**Explanation of this Section:** The Department provides project based rental subsidies, through programs such as Sections 8, 202, 811 and 236, to approximately 20,000 private and not for profit multifamily property owners, containing approximately 1.4 million units. The majority of these contracts are governed by the Multifamily Assisted Housing Reform and Affordability Act (MAHRA), which requires the Department to provide annual rent increases. This provision would enable the Department to suspend this requirement for FY 2019.

**Proposed Action:** The President's Budget proposes adding this new provision.

**SEC. 227. PUBLIC HOUSING FLEXIBILITIES.**—*For funds made available in this or prior acts under the accounts "Public Housing Capital Fund" and "Public Housing Operating Fund", the Secretary of Housing and Urban Development may waive, or specify alternative requirements for, statutory or regulatory provisions related to public housing agency (PHA) administrative, planning, and reporting requirements, energy audits, income recertifications, and program assessments, upon a finding by the Secretary,*

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*consistent with a process and criteria established by notice published in the Federal Register, that any such waivers or alternative requirements are necessary to reduce costs or for the effective delivery and administration of such funds.*

**Explanation of this Section:** This proposal provides HUD with the authority to waive or specify alternative requirements to reduce costs or provide for the more effective administration of the Public Housing program. This authority is limited to certain subject areas and will provide PHAs with a variety of options for temporary administrative relief that may be tailored to reflect the specific needs of the individual PHA.

**Proposed Action:** The President's Budget proposes adding this new provision.

**SEC. 228. TENANT-BASED RENTAL ASSISTANCE FLEXIBILITIES.**—*For funds made available in this or prior acts under the account "Tenant-Based Rental Assistance", the Secretary of Housing and Urban Development may waive, or specify alternative requirements for, statutory or regulatory provisions related to the setting and adjustment of allowable rent levels, payment standards, tenant rent contributions, occupancy standards, public housing agency (PHA) program assessments, or other PHA administrative, planning, and reporting requirements, upon a finding by the Secretary, consistent with a process and criteria established by notice published in the Federal Register, that any such waivers or alternative requirements are necessary to reduce costs or for the effective delivery and administration of such funds.*

**Explanation of this Section:** This proposal provides HUD with the authority to waive or specify alternative requirements to reduce costs or provide for the more effective administration of the housing choice voucher program. This authority is limited to certain subject areas and will provide PHAs with a variety of options for cost savings and temporary administrative relief that may be tailored to reflect the specific needs of the individual PHA.

**Proposed Action:** The President's Budget proposes adding this new provision.

**SEC. 229. ENHANCED VOUCHER PAYMENT STANDARDS.**—

*(a) Section 8(t)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)(1)) is amended—*

*(1) in subparagraph (B), by striking ", and if, during" and all that follows through "families";*

*(2) by amending subparagraph (C) to read as follows:*

*"(C) the tenant rent limitation in section 8(o)(3) shall not apply to families receiving enhanced voucher assistance under this paragraph; and"; and*

*(3) in subparagraph (D), by striking "exceed" and inserting "be less than".*

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*(b) The changes in this section only apply for eligibility events that occur 180 days after enactment of this Act.*

**Explanation of this Section:** This proposal would eliminate the higher payment standard provision for enhanced vouchers. Instead, the normally applicable PHA payment standard that establishes a maximum limit on the amount of subsidy that may be paid on behalf of an assisted family will also apply to enhanced vouchers. The tenant rent limitation is waived so that families will not be required to relocate as a result of this change.

**Proposed Action:** The President's Budget proposes adding this new provision.

**SEC. 230. CAPITAL AND OPERATING FUND FLEXIBILITY.**— *A public housing agency may use operating reserve funds or any amounts allocated to the agency from funds appropriated under the heading "Public Housing Operating Fund" in fiscal year 2019 or prior fiscal years, except for any set-asides listed under such headings, for any eligible activities under subsections 9(d)(1) and 9(e)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437g(d)(1) and (e)(1)). For funds appropriated under the heading "Public Housing Capital Fund" in prior fiscal years, except for any set-asides listed under such headings, a public housing agency may use any amounts allocated to the agency for any eligible activities under sections 9(d)(1) and 9(e)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437g(d)(1) and (e)(1)).*

**Explanation of this Section:** This provision permits public housing agencies to use FY 2019 and prior Public Housing Operating funds, and prior Public Housing Capital funds for any eligible public housing purpose, regardless of the fund from which the amounts were allocated and provided.

**Proposed Action:** The President's Budget proposes adding this new provision.

**SEC. 231. MARK-TO-MARKET.**— *Section 579 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended by striking "October 1, 2017" each place it appears and inserting in lieu thereof "October 1, 2022".*

**Explanation of this Section:** This provision extends the Mark-to-Market (M2M) program, which sunset on October 1, 2017. The purpose of the M2M program is to reduce Section 8 costs and preserve the affordability and availability of low-income rental housing. The M2M program allows participants to reduce the property rents to market level while, when necessary, simultaneously reducing property debt levels and owner costs through a number of tools authorized by the legislation. The M2M program includes properties with FHA-insured loans and Section 8 subsidies and was created in the Multifamily Assisted Housing Reform and Affordability Act of 1997.

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**Proposed Action:** The President's Budget proposes adding this new provision.

### **SEC. [236] 232. CONTINUUM OF CARE TRANSITION GRANTS.**

[(a) From amounts made available under this title under the heading "Homeless Assistance Grants", the Secretary may award 1-year transition grants to recipients of funds for activities under subtitle C of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11381 et seq.) to transition from one Continuum of Care program component to another.

(b) No more than 50 percent of each transition grant may be used for costs of eligible activities of the program component originally funded.

(c) Transition grants made under this section are eligible for renewal in subsequent fiscal years for the eligible activities of the new program component.

(d) In order to be eligible to receive a transition grant, the funding recipient must have the consent of the Continuum of Care and meet standards determined by the Secretary.]

*Section 428 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11386b) is amended by adding at the end of the section, subsection (f) to read as follows:*

*"(f) TRANSITION FOR REALLOCATED GRANT.—*

*"(1) From amounts under this subtitle made available to carry out subtitle B and this subtitle, the Secretary may award one-year transition grants to recipients to transition from one Continuum of Care program component to another.*

*"(2) In order to be eligible to receive a transition grant, the project must have the consent of the Continuum of Care, and meet standards determined by the Secretary."*

**Explanation of this Section:** This provision would allow CoC grantees to receive one-year transition grants to transition from one CoC program component to another. When a grant for a project is awarded through reallocation, it is a new project and cannot start operations until the grant agreement has been executed. However, there are instances where a new grant created through reallocation is using the staff and other resources, including housing, from the grant that is being eliminated to create the new grant. To avoid undue hardship on organizations, and to ensure that program participants are served in the most appropriate manner during the transition period, HUD is seeking authority to allow the eliminated project to continue operating during the transition period from the old to new grant.

**Proposed Action:** The President's Budget proposes retaining this provision, but editing it to make the change permanent.

**SEC. 233.** *Of unobligated balances, including recaptures and carryover, from funds appropriated under the heading "Choice Neighborhoods Initiative" in fiscal year 2017, \$137,000,000 are hereby permanently cancelled.*

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*Of the unobligated balances from prior year appropriations under the heading "Revitalization of Severely Distressed Public Housing (HOPE VI)", \$1,000,000 are hereby permanently cancelled.*

**Explanation of this Section:** This provision would cancel funds from the Choice Neighborhoods and HOPE VI programs.

**Proposed Action:** The President's Budget proposes adding this new provision.

**SEC. 234.** *THRESHOLD REQUIREMENTS FOR LEAD-BASED PAINT HAZARD ELIMINATION IN FEDERALLY ASSISTED HOUSING.—Section 302(a)(1) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(a)(1) is amended—*

*(1) in subparagraph (D), by striking "\$25,000 per unit in Federal funds" and inserting "\$45,000 per unit in Federal funds, updated to adjust for inflation, as determined by the Secretary using a publicly available price or cost index, and rounded down to a multiple of \$1,000, with such adjustment published by notice in the Federal Register with opportunity for public comment"; and*

*(2) in subparagraph (E), by striking "\$25,000 per unit in Federal funds" and inserting "the amount of Federal funds specified in subparagraph (D)".*

**Explanation of this Section:** This provision would raise the threshold for lead abatement under the Lead Safe Housing statute (42 U.S.C. 4822(a)(1)) to reflect inflation since the enactment of that statute thereby providing grantees more flexibility in how they address lead-based paint in a residence.

**Proposed Action:** The President's Budget proposes adding this new provision.

**SEC. 235.** *Section 1018(a) of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4852d(a)) is amended by adding at the end the following new paragraph:*

*"(6) AUTHORITY OF THE SECRETARY.—*

*"(A) INVESTIGATIONS.—The Secretary is authorized to conduct such investigations as may be necessary to administer and carry out the Secretary's duties under this section. The Secretary is authorized to administer oaths and require by subpoena the production of documents, and the attendance and testimony of witnesses as the Secretary deems advisable. Nothing contained in this subparagraph shall prevent the Administrator of the Environmental Protection Agency from exercising authority under the Toxic Substances Control Act or this Act.*

*"(B) ENFORCEMENT.—Any district court of the United States within the jurisdiction of which an inquiry is carried, on application of the Attorney General, may, in the case of contumacy or refusal to obey a subpoena of the Secretary issued under this section, issue an order requiring compliance therewith; and any failure to obey such order of the court*

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*may be punished by the court as a contempt thereof..”.*

**Explanation of this Section:** This provision would provide the Secretary with subpoena authority for enforcement of the Lead Disclosure Statute (42 U.S.C. 4852d).

**Proposed Action:** The President’s Budget proposes adding this new provision.

**SEC. 236.** *Section 858 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12907) is amended—*

*(1) in the title, by inserting “, SHORT-TERM AND MEDIUM-TERM HOUSING PAYMENTS ASSISTANCE,” after “SUPPORTED HOUSING”;*

*(2) by amending subsection (a)(2) to read as follows:*

*“(2) SHORT-TERM AND MEDIUM-TERM HOUSING PAYMENTS ASSISTANCE.—Providing rent assistance payments for short-term supported housing and short-term and medium-term rent and utilities payments to eligible persons who are homeless or in need of housing assistance to prevent homelessness of the tenant, and short-term and medium term mortgage and utilities payments to prevent homelessness of a mortgagor of a dwelling.”; and*

*(3) by amending subsection (b)(3)(B) to read as follows:*

*“(B) HOUSING PAYMENTS ASSISTANCE.—A program assisted under this section may provide short-term and medium-term assistance, accruing over a period of no more than 24 months, for rent and utilities payments to eligible persons who are homeless or in need of housing assistance to prevent homelessness and for mortgage and utilities costs to eligible persons in need of housing assistance to prevent homelessness, provided that after receiving 3 months of assistance, the person’s housing and supportive services needs are assessed on an ongoing monthly basis.*

**Explanation of this Section:** This provision would expand the provision of short-term housing from 21 weeks to a maximum of 24 months, with a requirement for ongoing needs assessment, to provide communities with greater latitude in addressing the housing needs of those living with HIV who are at severe risk of homelessness.

**Proposed Action:** The President’s Budget proposes adding this new provision.

**SEC. 237.** *With respect to grants awarded under the heading “Homeless Assistance Grants” for fiscal year 2019 for the continuum of care (CoC) program as authorized under section 422 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11382), grant amounts for rental assistance may be—*

*(1) the amount calculated by multiplying—*

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- (A) the fair market rent, as established by the Secretary of Housing and Urban Development, as of the date of the application for each unit proposed by the applicant to be assisted over the grant period; by*
- (B) the number and size of such units; or*
- (2) an estimate submitted by the applicant, so long as the estimate does not exceed the amount that would have been determined for that applicant based on paragraph (1).*

**Explanation of this Section:** HUD proposes to allow additional flexibility for applicants to calculate their need for rental assistance. The change would allow applicants to use their own methodology for calculating their rental assistance budget rather than relying on a HUD determined formula. It would not change the amount of rental assistance that could be provided to a program participant. This change will simplify the application process and reduce opportunities for errors. It will also provide rental assistance amounts that more accurately reflect the need in each community.

**Proposed Action:** The President's Budget proposes adding this new provision.

**SEC. 238.** *Notwithstanding section 423 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11383), grants awarded to qualified applicants may be used, at the discretion of the Secretary, to carry out projects that serve homeless individuals or families in rural communities that consist of one or more of the following eligible activities:*

- (1) Payment of relocation assistance;*
- (2) Payment of short-term emergency lodging, including in motels or shelters, either directly or through vouchers;*
- (3) Repairs such as insulation, window repair, door repair, roof repair, and repairs that are necessary to make premises habitable; and*
- (4) Capacity building activities, including payment of staff training and staff retention.*

**Explanation of this Section:** HUD proposes to allow rural communities to use funds for additional eligible activities, including capacity building, repairs, and other short-term activities that help rural homeless communities address barriers to transitioning homeless individuals and families to permanent housing. This provision helps address the lack of provider capacity in many rural areas and allows rural providers to use cost effective strategies to help individuals and families move into and retain permanent housing.

**Proposed Action:** The President's Budget proposes adding this new provision.

**SEC. 239.** *Section 106(a)(4)(A) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(a)(4)(A)) is amended—*  
*(1) by striking "and" and inserting a comma; and*  
*(2) by inserting the following before the period at the end: ", State and local governments, Indian tribes, and tribally*

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*designated housing entities. The terms "Indian tribes" and "tribally designated housing entities" have the meanings given to them by section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103)".*

**Explanation of this Section:** This provision adds Indian tribes and tribally-designated housing entities to the list of eligible grantees under Housing Counseling.

**Proposed Action:** The President's Budget proposes adding this new provision.

**SEC. 240.** *For mortgages insured under section 255 of the National Housing Act (hereafter referred to as "the Act") (12 U.S.C. 1715z-20), the Secretary may by mortgagee letter establish limits, based on the area in which the insured property is located, on the insurance benefits available under section 255(g) of the Act (12 U.S.C. 1715z-20(g) and on the principal obligation available under section 255(m)(2) of the Act (12 U.S.C. 1715z-20(m)(2)).*

**Explanation of this Section:** This provision authorizes the Department to establish loan limits for HECM loans insured under section 255 of the National Housing Act based on the geographic area in which the property securing the HECM is located.

**Proposed Action:** The President's Budget proposes adding this new provision.

**SEC. 241.** *Section 8(o)(11) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(11)) is amended by inserting the following new subparagraph at the end:*

*"(C) PHA RESPONSIBILITES AS OWNER.—As the owner of the unit, the public housing agency is subject to all of the program requirements and the terms and conditions of the housing assistance payment contract that the public housing agency would otherwise have executed as the owner of the unit. The public housing agency shall sign a certification, as prescribed by the Secretary, for the public housing agency-owned unit in lieu of executing a housing assistance payment contract, unless the unit is owned by an entity, limited liability company, or limited partnership described in subparagraph (B), in which case the entity, limited liability company, or limited partnership shall sign the housing assistance payment contract as the owner."*

**Explanation of this Section:** The provision allows the PHA to certify to HUD that the PHA will fulfill all the program responsibilities required of a private owner for a PHA-owned unit. This will allow a family to rent a PHA-owned unit without the PHA first having to create a PHA-affiliate with which to execute the HAP contract. In either case, an independent entity is still required to conduct the unit inspections and other PHA administrative functions for the PHA-owned unit. This provision is designed to increase housing opportunities for voucher families by helping facilitate the use

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of PHA-owned units in the Housing Choice Voucher Program.

**Proposed Action:** The President's Budget proposes adding this new provision.

**SEC. 242. UNEXPENDED INDIAN HOUSING BLOCK GRANT FUNDS.**—Section 203(f)(2) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4133(f)(2)) is amended by adding "The Secretary may still determine the recipient did not carry out eligible activities in a timely manner in accordance with section 405 of this Act." after "any subsequent fiscal year."

**Explanation of this Section:** This proposal clarifies HUD's authority to address unexpended Indian Housing Block Grant (IHBG) funds. The language makes clear that regardless of the ability of IHBG recipients to accumulate grant funds for future use, HUD can still find that a recipient has failed to carry out eligible activities and expend grant funds in a timely manner.

**Proposed Action:** The President's Budget proposes adding this new provision.

**SEC. 243.** Section 401(a)(4) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4161(a)(4)) is amended—

(1) in subparagraph (A), to read as follows:

"(A) *IN GENERAL.*—Notwithstanding any other provision of this Act or regulation, if the Secretary makes a determination that an action or a failure to act by a recipient of assistance under this Act is resulting, and would continue to result, in a continuing expenditure of Federal funds in a manner that is not authorized by law, the Secretary may immediately take an action described in paragraph (1) before conducting a hearing."; and

(2) in subparagraph (B)(ii), to read as follows:

"(ii) commence the hearing procedures not later than 60 days after the date on which the Secretary provides notice under clause (i).".

**Explanation of this Section:** This proposal would revise the Indian Housing Block Grant (IHBG) hearing process for suspected misappropriations of IHBG grant funds to allow HUD to commence – rather than complete - hearing procedures in 60 days and be able to suspend funds until the hearing is completed.

**Proposed Action:** The President's Budget proposes adding this new provision.

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### **SEC. 244. NAHASDA GRANT RECOUPMENT.**

(a) *Section 302 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4152) is amended :*

- (1) by redesignating subsection (e) as subsection (f), and
- (2) by inserting after subsection (d) the following:

*"(e) OVERFUNDING.—If the Secretary determines that a recipient received more block grant funding than it should have according to the allocation formula, the recipient shall return the amount overfunded so that it may be properly allocated according to the formula. The recipient may return the overfunding from past, current, or future grant amounts, or from other funds. If the recipient fails to make arrangements to return the overfunding within a reasonable period of time, as determined by the Secretary, the Secretary may recoup the overfunding by offset against past, current, or future grant amounts. Nothing in this Act shall be construed as limiting the Secretary's authority to recoup grant overfunding; nor shall anything in this Act be construed as requiring formal hearing procedures or a finding of noncompliance for the Secretary to recoup grant overfunding."*

(b) *The amendment applies to any overfunding, including funds allocated in prior fiscal years and to offsets completed in prior fiscal years.*

**Explanation of this Section:** This proposal clarifies HUD's authority to recapture misallocated HUD funds. Funding allocations are in part based on self-reported, and sometimes incorrect, information from recipients, which can lead to a recipient receiving more Indian Housing Block Grant (IHBG) funding than it should have according to the allocation formula. This proposal makes clear that HUD has the authority to require the IHBG grantee to pay the excess funds back to agency, and allow HUD to recapture the funding by offsetting the excess funds against past, current, or future grants if a grantee cannot or refuses to repay the excess funds.

**Proposed Action:** The President's Budget proposes adding this new provision.

**SEC. 245. NAHASDA TECHNICAL EDITS.—***The Native American Housing Assistance and Self-Determination Act of 1996 is amended—*

- (1) *in section 103(c)(3) (25 U.S.C. 4113(c)(3)), by striking "section 102(c)(5)" and inserting "section 102(b)(2)(D)"; and*
- (2) *in section 401(b)(4)(A) (25 U.S.C. 4161(b)(4)(A)), by striking "and" and inserting "or".*

**Explanation of this Section:** This language is a necessary technical correction to an outdated cross reference in the Native American Housing Assistance and Self-Determination Act (NAHASDA). Section 103(c)(3) of NAHASDA contains a reference to section 102(c)(5) of NAHASDA but that citation was deleted in the 2008 Reauthorization of NAHASDA. The

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reference should be section 102(b)(2)(D).

**Proposed Action:** The President's Budget proposes adding this new provision.

**SEC. 246.** *Section 184(b) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13a(b)) is amended by adding at the end the following new paragraph:*

*"(6) DIRECT GUARANTEE AND INDEMNIFICATION. —*

*"(A) The Secretary may authorize qualifying lenders to participate in a direct guarantee process for approving loans. If the Secretary determines that a mortgage insured through the direct guarantee process was not originated in accordance with the requirements established by the Secretary, then the Secretary may require the lender approved under this subparagraph to indemnify the Secretary for the loss, irrespective of whether the violation caused the mortgage default. If fraud or misrepresentation was involved in the direct guarantee process, the Secretary shall require the lender approved under this subparagraph to indemnify the Secretary for the loss regardless of when an insurance claim is paid.*

*"(B) Periodically, the Secretary may review the mortgagees originating or underwriting single family mortgages under this section, as follows:*

*"(i) In conducting this review the Secretary shall compare that mortgagee with other mortgagees originating or underwriting loan guarantees for Indian housing based on the rates of defaults and claims for insured single family mortgage loans originated or underwritten by that mortgagee.*

*"(ii) The Secretary may also compare that mortgagee with such other mortgagees based on underwriting quality; geographic area served; or any commonly used factors the Secretary deems necessary for comparing mortgage default risk, provided that such comparison is of factors that the Secretary would expect to reduce the default risk of mortgages insured by the Secretary.*

*"(iii) In carrying out the periodic review of mortgagee performance, the Secretary shall implement such comparisons by regulation, notice, or mortgagee letter.*

*"(iv) The Secretary may terminate the approval of a mortgagee to originate or underwrite loan guarantees for Indian Housing if the Secretary determines that the mortgage loans originated or underwritten by the mortgagee present an unacceptable risk to the Indian Housing Loan Guarantee fund based on a comparison of any of the factors set forth in this subparagraph or by a determination that the mortgagee engaged in fraud or misrepresentation."*

**Explanation of this Section:** Lenders participating in the Section 184 direct loan guarantee program are able to underwrite loans for closing without prior HUD review. When lenders close loans that do not comply with the Section 184 requirements, this proposal would give HUD the option of requiring them to indemnify HUD for any losses suffered. This proposal would also allow lenders to be terminated from the program if it is determined that they pose an unacceptable risk to the program. This proposal gives this program authority that is critical in FHA programs, and will help reduce risk

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to the program by providing HUD with a remedy in cases where lenders do not originate or underwrite mortgage loans in accordance with program requirements and guidelines.

**Proposed Action:** The President's Budget proposes adding this new provision.

**SEC. 247.** *Section 184(l) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13a(l)) is amended—*

*(1) in paragraph (3), to read as follows:*

*"(3) The term "Indian" has the same definition as in section 4(10) of the Native American Housing Assistance and Self-Determination Act of 1996.";* and

*(2) in paragraph (8), to read as follows:*

*"(8) INDIAN TRIBE.—*

*"(A) INDIAN TRIBE.—The term "Indian tribe" has the same definition as in section 4(13)(A) of the Native American Housing Assistance and Self-Determination Act of 1996.*

*"(B) FEDERALLY RECOGNIZED TRIBE.—The term "Federally recognized tribe" has the same definition as in section 4(13)(B) of the Native American Housing Assistance and Self-Determination Act of 1996.*

*"(C) STATE-RECOGNIZED TRIBE.—The term "State-recognized tribe" has the same definition as in section 4(13)(C)(i) of the Native American Housing Assistance and Self-Determination Act of 1996.*

*"(D) CONDITIONS.—Nothing in paragraph (C) shall be construed to confer upon a State-recognized tribe any rights, privileges, responsibilities, or obligations otherwise accorded Indian tribes recognized by the United States for other purposes."*

**Explanation of this Section:** This provision clarifies the definitions of "Indian", "Indian tribe", "federally recognized tribe", and "state-recognized tribe" in Sec. 184 of the Housing and Community Development Act of 1992, in order for them to align with the definitions in the Native American Housing Assistance and Self-Determination Act of 1996.

**Proposed Action:** The President's Budget proposes adding this new provision.

**SEC. 248.** *Section 184A(c)(4) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13b(c)(4)) is amended by adding the following new subparagraph (C):*

*"(C) DIRECT GUARANTEE AND INDEMNIFICATION.—*

*"(i) The Secretary may authorize qualifying lenders to participate in a direct guarantee process for approving loans. If the Secretary determines that a mortgage insured through the direct guarantee process was not originated in accordance with the requirements established by the Secretary, then the Secretary may require the lender approved under this subparagraph to indemnify the Secretary for the loss, irrespective of whether the violation caused the*

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*mortgage default. If fraud or misrepresentation was involved in the direct guarantee process, the Secretary shall require the lender approved under this subparagraph to indemnify the Secretary for the loss regardless of when an insurance claim is paid.*

*"(ii) Periodically, the Secretary may review the mortgagees originating or underwriting single family mortgages under this section, as follows:*

*"(aa) In conducting this review the Secretary shall compare that mortgagee with other mortgagees originating or underwriting loan guarantees for Native Hawaiian housing based on the rates of defaults and claims for insured single-family mortgage loans originated or underwritten by that mortgagee.*

*"(bb) The Secretary may also compare that mortgagee with such other mortgagees based on underwriting quality; geographic area served; or any commonly used factors the Secretary deems necessary for comparing mortgage default risk, provided that such comparison is of factors that the Secretary would expect to reduce the default risk of mortgages insured by the Secretary.*

*"(cc) In carrying out the periodic review of mortgagee performance, the Secretary shall implement such comparisons by regulation, notice, or mortgagee letter.*

*"(dd) The Secretary may terminate the approval of a mortgagee to originate or underwrite loan guarantees for Native Hawaiian housing if the Secretary determines that the mortgage loans originated or underwritten by the mortgagee present an unacceptable risk to the Native Hawaiian Housing Loan Guarantee Fund Program Account fund based on a comparison of any of the factors set forth in this subparagraph or by a determination that the mortgagee engaged in fraud or misrepresentation."*

**Explanation of this Section:** Lenders participating in the Section 184A direct loan guarantee program are able to underwrite loans for closing without prior HUD review. When lenders close loans that do not comply with the Section 184A requirements, this proposal would give HUD the option of requiring them to indemnify HUD for any losses suffered. This proposal would also allow lenders to be terminated from the program if it is determined that they pose an unacceptable risk to the program. This proposal gives this program authority that is critical in FHA programs, and will help reduce risk to the program by providing HUD with a remedy in cases where lenders do not originate or underwrite mortgage loans in accordance with program requirements and guidelines.

**Proposed Action:** The President's Budget proposes adding this new provision.

***SEC. 249.*** *Amounts made available in title II of division K of the Consolidated Appropriations Resolution, 2003 (Public Law 108-7, approved February 20, 2003) under the heading "Indian Housing Loan Guarantee Fund Program Account" for necessary expenses of the Land Title Report Commission may be used by the Secretary of Housing and Urban Development, notwithstanding the purposes for which such funds originally were appropriated, in addition to other amount made available to*

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*the Secretary, for necessary expenses as determined by the Secretary, in support of meetings, hearings, or collaborations with the Bureau of Indian Affairs of the Department of the Interior to improve the process or system for maintaining land ownership records and title documents and issuing certified title status reports relating to Indian trust lands.*

**Explanation of this Section:** This provision allows HUD to use funds previously appropriated for the Land Title Commission to be used more broadly to support the same goal of improving processes and systems related to maintaining land records in Indian Country.

**Proposed Action:** The President's Budget proposes adding this new provision.

***SEC. 250.*** *Of the amounts made available for salaries and expenses under all accounts under this title (except for the Office of Inspector General account), a total of up to \$10,000,000 may be transferred to and merged with amounts made available in the "Information Technology Fund" account under this title.*

**Explanation of this Section:** This provision allows for the transfer of up to \$10 million from salaries and expenses to the Information Technology Fund.

**Proposed Action:** The President's Budget proposes adding this new provision.

***SEC. 251.*** *Of remaining unobligated balances, including recaptures and carryover, from funds appropriated under the heading "Native Hawaiian Housing Loan Guarantee Fund Program Account" for the cost of guaranteed loans, \$5,000,000 shall be cancelled: Provided, That this rescission shall not limit the authority to commit new loan guarantees under loan guarantee limitation provided in prior appropriations Acts.*

**Explanation of this Section:** As the Section 184A program has moved to a negative subsidy program, the subsidy appropriated in previous years is no longer needed. HUD proposes to rescind \$5 million, leaving a balance of \$1 million in case of changing subsidy rates.

**Proposed Action:** The President's Budget proposes adding this new provision.