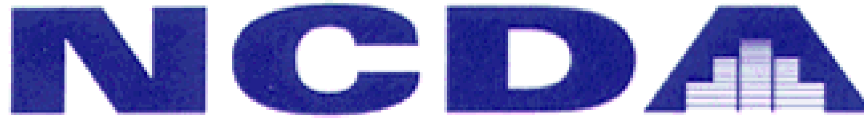

FROM: CHANDRA WESTERN
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DATE: October 29, 1999

FEATURE ARTICLES

- *President Signs VA-HUD Appropriations Bill*
- *Congress Seeks 1% Across-the-Board Cut in all Discretionary Programs*
- *Another Continuing Resolution is Likely*
- *White House and Congress Compromise on Financial Modernization*
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PRESIDENT SIGNS VA-HUD APPROPRIATIONS BILL

President Clinton signed the FY 2000 VA-HUD Appropriations bill (H.R. 2684) on Wednesday, October 20, marking the end to months of negotiating among Congressional appropriators and the Administration on veterans, housing, environmental, and science funding. See the October 15th issue of the *Washington Report* for complete coverage of all of HUD's programs. A few changes were made to the bill since then, such as an increase in the CDBG set-asides from $545 million to $560 million. This increase occurred in the Economic Development Initiatives (EDI) set-aside within CDBG, which provides targeted funding to jurisdictions across the country, including "pet"projects of congressional members. A complete list of the EDI set-asides has been put on the website in the latest NCDA Alert.. If you want a hard copy of this list, please contact Carla Sauls, at 202-293-7587.

FY 2000 HUD Funding Levels

Program	FY 1999 Enacted Level	FY 2000 Approved Level
CDBG	$4.750 billion	$4.8 billion
HOME	$1.6 billion	$1.6 billion
Homeless Assistance Grants	$975 million	$1.020 billion
Section 202 (elderly)	$660 million	$710 million
Section 811 (disabled)	$194 million	$205 million
Housing Certificate Fund	$9.6 billion	$11.03 billion
Public Housing Operating Fund	$2.818 billion	$3.003 billion
Public Housing Capital Fund	$3 billion	$2.9 billion
Lead-Based Paint Abatement	$80 million	$80 million
Housing Opportunities for Persons with AIDS (HOPWA)	$225 million	$232 million
HOPE VI (Severely Distressed Public Housing)	$625 million	$575 million
Native American Housing Block Grants	$620 million	$620 million
Drug Elimination Grants	$310 million	$310 million
Brownfields Redevelopment	$25 million	$25 million
Fair Housing	$40 million	$40 million
Rural Housing and Economic Development	$25 million	$25 million

CONGRESS SEEKS PERCENT ACROSS-THE-BOARD CUT IN ALL DISCRETIONARY PROGRAMS

Congress is in the midst of wrapping up the final appropriations bills before adjourning for the year and, as predicted, they are finding it increasingly difficult to locate monies to fund the final bills, in particular the Labor-HHS-Education appropriations bill, which has been gutted to provide funding for other appropriations bills. Congress is now proposing to cut all discretionary programs by 0.97% in FY 2000, as a means of providing the $5.6 billion needed to complete the Labor-HHS bill. This would include a 0.97% cut to programs which have approved appropriations bills, including the VA-HUD measure. The House has attached the across-the-board cut to its FY 2000 Labor-HHS-Education appropriations bill. Congressional Republicans assert the provision is necessary in order to avoid dipping into the Social Security Fund.

Congressional Democrats and the White House feel differently, however. The President has vowed to veto the measure.

ANOTHER CONTINUING RESOLUTION IS LIKELY

Congress approved another one week continuing resolution to keep those federal agencies that do not have signed appropriations bills operating through November 5th. This brings to three the number of continuing resolutions that have been approved this year. Without a continuing resolution, those agencies would be forced to shut down. The measure is expected to be approved by the President today. To date, five appropriations bills remain outstanding: Labor-HHS-Education, District of Columbia, Commerce-Justice-State, Foreign Operations, and Interior. With the Congress and the President far apart on some of these measures, it is likely that yet another continuing resolution will be needed after this one expires.

WHITE HOUSE AND CONGRESS COMPROMISE ON FINANCIAL MODERNIZATION BILL

In the early morning on Saturday, October 23, Treasury Secretary Lawrence Summers and White House Economic Advisor Gene Sperling signaled the Administration's willingness to approve a preliminary compromise version of H.R. 10/S. 900, the Financial Services Modernization Act. Agreement on the outlines of the conference report for H.R. 10/S. 900 was achieved around 2:00 a.m, after a marathon negotiating session aimed at making sure the Community Reinvestment Act would remain viable in the new banking/financial services universe the legislation will create.

Although the White House and the House and Senate Banking Committee conferees announced that they struck a deal over the weekend, the bill's actual language is still being written. Regardless, many committee observers believe the final draft of the conference report could be ready to go to the floor of both chambers as early as Monday, November 1st.

Assuming it is signed into law, the Financial Services Modernization Act will overturn depression era banking laws that now prevent banks, insurance companies, thrifts, and securities firms from engaging in one another's primary area of business. Under the new regulatory regime, the legal authority will exist for the formation of mega-sized "financial holding companies" that will be able to offer consumers one-stop shopping for everything from auto and life insurance, to home loans, checking and savings accounts, and equity investing.

Concerns over proposals introduced by Senator Phil Gramm (R-TX) to alter the 1977 Community Reinvestment Act proved to be the main sticking point in the negotiations. The Clinton Administration believes it has negotiated an agreement which does not weaken the CRA's existing "have and maintain" requirement, which obligates banks and other federally insured depository institutions to maintain a minimum level of investment in poor communities. With respect to the bill's particular CRA related provisions, under the compromise that was agreed to last Saturday, the Financial Services Modernization Act:

- clarifies that nothing in the Act repeals any provision of the CRA;

- directs bank regulators to prohibit banks and/or financial holding companies from commencing a new business activity or acquiring or merging with another financial services entity unless that bank or financial holding company and all of its federally insured subsidiaries earned at least a "Satisfactory" CRA rating on their last exam. (This requirement would apply each and every time a bank or financial holding company seeks to enter into a new line of business.);

- The legislation also eases the CRA regulatory burden on so-called "small banks" (banks with assets below $250 million) by lengthening their CRA exam cycles. Small Banks that previously received an "Outstanding" CRA rating will not be examined again for five years. For those small banks that previously received a Satisfactory rating, there won't be another examination for four years;

- Small banks with failing CRA ratings would be examined at the discretion of Federal Reserve–neither a minimum floor nor a maximum ceiling on the number of examinations for CRA-non compliant small banks is provided for in the text of the legislation;

- Lastly, the law adopts an annual "sunshine" reporting requirement that applies only to CRA agreements between banks and individuals or community based groups that have commented on or testified about the bank's CRA rating. An exemption to this rule is provided for grants or considerations worth less than $10,000 annually and loans worth less than $50,0000 annually, as well as any market-rate individual mortgage, business or farm loan, where the purpose of the loan does not include re-lending.

Despite the fact that President Clinton has stated publicly that he intends to sign the Financial Modernization Act, a host of community development interest groups and consumers' rights organizations remain strongly opposed to the legislation. Chief among them is the National Community Reinvestment Coalition (NCRC), a not-for-profit association that represents community based development corporations in Washington.

NCRC rejects the Financial Modernization Act on the grounds that it fails to adequately 'modernize' CRA to cover all the new sources of investment capital that will be generated under the Financial Modernization Act. For example, the insurance and securities subsidiaries of financial holding companies will continue to be exempt from any CRA considerations whatsoever since thy are not federally insured depository institutions. Therefore, the more money banks/financial holding companies shift into their insurance and brokerage subsidiaries, the less CRA regulated capital will be available for low- to- moderate income communities.
Another bone of contention for community development interests opposed to the Financial Modernization Act, is that the 'regulatory relief' granted to small banks will mean that nearly 80% of the nations banks will be able to avoid a regular CRA exam for at least four years. The fear is that banks will slack off on community investment activity until the third or in some instances fourth year of their exam cycles. Obviously, this could have a dire effect on the level of CRA lending in which banks engage.

To make matters worse, the law's lack of a prescribed minimum examination cycle for those small banks with failing CRA ratings creates a huge loophole for the most CRA non-compliant banks. Whereas banks with Outstanding and Satisfactory CRA ratings must be examined at least every four and five

years respectively, failing banks are examined only at the discretion of federal regulators. In effect, regulators have no statutory obligation to examine these banks within any fixed period of time. If regulators choose, for whatever reason, not to get to these worst case offenders then these CRA non-compliant banks could very well continue to fail to meet their CRA requirements with impunity. Finally, the law's sunshine provision is deeply feared because of the chilling effect it might have on the willingness of banks to establish cooperative CRA agreements with community based development organizations. Why would a bank enter into a CRA agreement with a CDC if all it will get for its trouble is additional regulatory headaches in the form of more paperwork to prepare for federal regulators.

For the moment, the Clinton Administration and Congress are continuing to negotiate in order to tie up some of the Financial Modernization Act's loose ends. It is hoped that during this time some of the remaining concerns of community development interests can still be addressed before the ink dries on the final draft of the conference report. Either way, NCRC and its allies vow to continue to fight to make sure that CRA is modernized in a way that preserves opportunities for America's financially under-served communities.

SUPERFUND/BROWNFIELDS REFORM LEGISLATION CLEARS ANOTHER HURDLE

The House Commerce Committee reported out its own version of brownfields-Superfund liability reform legislation0 on October 13, 1999. Introduced by Representative James Greenwood (R-PA), H.R. 2580 includes many provisions in high demand by cities and others interested in redeveloping brownfields and finding relief from many of the existing Superfund law's more onerous regulations. In particular, H.R. 2580 grants "innocent parties" liability relief from Superfund rules, provides funding to aid state and local governments for site assessment and clean-up, and clarifies the blurry jurisdictional relationship which currently exists between U.S. EPA and the states with regard to non-NPL clean-up sites. H.R. 2580 also includes liability relief for municipal parties that manage, transport, and dispose of municipal solid waste.

Though very similar to "The Recycle America's Land Act" (H.R. 1300), unlike H.R. 1300 Representative Greenwood's bill failed to win much support from the Democratic members of its committee of origin. Formally endorsed by the U.S. Conference of Mayors and a range of other state and local government associations, H.R. 1300 was successfully reported out of the House's Transportation and Infrastructure Committee (T&I) with overwhelming bi-partisan support in mid-September. The final tally was 69-2 in favor of the bill. In contrast, even after thirty hours of debate and a great deal of negotiating that involved the consideration of some thirty different amendments, H.R. 2580 still only managed to garner yea votes from two of the Commerce Committee's twenty-three Democrats.

On a more positive note, despite the acrimony that H.R. 2580 generated in the Commerce Committee, its passage brings the Congress that much closer to sending a comprehensive brownfields-Superfund bill to the President before the end of this legislative session. Moreover, the House Commerce and T&I Committees are now busy working to merge H.R. 1300 and H.R. 2580 into a single piece of compromise reform legislation that can more expeditiously make its way through the House. Once the Commerce and T&I Committees have finished their work, the only major procedural hurdle standing in the way of a final vote in the House on a brownfields-Superfund reform package is the approval of a tax bill to enact

the legislation's proposed revenue provisions by the House Ways & Means Committee. Nevertheless, the intense partisan sniping which often plagued the Commerce Committee's consideration of H.R. 2580 has many Congress watchers concerned that sorely needed brownfields-Superfund liability reform legislation may fall prey to election year politics, as the two parties position themselves for an environmental debate designed to energize their respective bases.

FY 2000 LIHTC AND BOND CAP INCREASE CLING TO LIFE IN MINIMUM WAGE BILL

On Thursday, October 19th, Senator William Roth (R-DE), Chairman of the Senate Finance Committee, released the outlines of his Committee's proposal to extend an array of popular tax credits for FY 2000 and beyond. At first glance S. 1792 appears to cover all the bases. Chairman Roth proposes a permanent extension of the research and development tax credit for business, extends the alternative minimum tax credit for individuals, extends the work opportunity tax credit and the welfare to-work tax credits for another year, and includes such environmentally friendly provisions as an extension of funding for brownfields remediation and a tax credit for electricity produced by wind and closed loop bio-mass facilities. (The state of Delaware is attempting to turn the process of converting natural methane found in chicken dung into electricity into a growth industry.) And all of this is expected to cost a mere $8.5 billion, considerably less than the $792 billion tax bill so zestily vetoed by President Clinton earlier this year. Presumably, S.1792's relatively low price tag will make the bill more palatable to the moderate Republicans and Democrats who balked at the size of the last tax bill authored by Chairman Roth.

From a community development perspective, however, what is so telling and deeply disturbing about S.1792 is that it includes absolutely no mention of a FY 2000 extension, much less an increase, in the Low Income Housing Tax Credit program or the Private Activity Bond Cap program. Since the end of the fiscal year came and went without the passage of a tax credit extender bill, it appears that the bi-partisan momentum that existed at the beginning of the year to see increased funding for the LIHTC and bond cap programs has faded even faster than Congress' willingness to use surplus Social Security trust fund dollars for discretionary spending. As it stands right now, only one active bill in the Congress, Representative Rick Lazio's (R-NY) minimum wage proposal, H.R.3081, gives any mention to increasing the LIHTC or private activity bond cap.

Representative Lazio's bill bundles a $1.00 increase in the federal minimum wage over three years with $35 billion in small business tax sweeteners. Unfortunately for Representative Lazio, most House and Senate Democrats have already proclaimed his bill dead on arrival. Of course it is not the minimum wage increase that Democrats object to– in fact they have introduced their own bill that increases the minimum $1.00 over two years (H.R. 325). Rather, Democrats feel Lazio's tax package is too big and includes far too many of the tax code changes they rejected in the last Republican tax bill, such as a phase out of the estate tax and reduction in the corporate capital gains tax rate. Moreover, the House's leading Republican tax writer, Ways & Means Committee Chairman Bill Archer, is insisting that Lazio strip all the non-small business tax provisions from his bill before he will allow a vote on in it in Committee. Rep. Archer (R-TX) wants to make sure that tax breaks in the minimum wage bill offset the increased cost of labor to small business and nothing more.

With the Congress still tied up with FY 2000 appropriations, no one can really say what will happen. In

theory any number of riders could be attached to the remaining appropriations bills to extend and even increase the LIHTC and bond cap programs. On the other hand, members may be so eager to get back to their districts to campaign that dealing with the tax extender issue, even in appropriations bills, may seem like just too much of a distraction. Either way, we'll be sure to keep you posted.

HUD NEWS

HUD SENDS ANTI-PIRATING REGULATION TO INTERNAL REVIEW

On Monday, NCDA learned that CPD has forwarded to the internal review process a proposed regulation on the anti-pirating provision that became law and was included in the FY 1999 HUD appropriations bill. Anti-pirating relates to the relocation of a commercial or industrial business from one area (city, town, state) to another, whereby the result of this relocation causes a significant increase in the unemployment levels in the former location. The act of using federal funds, specifically CDBG funds as the enticement for this relocation is the crux of this issue. Each of the past four fiscal years members of the House of Representatives have supported including an amendment to the CDBG statute in HUD's appropriations bill to prohibit this use of CDBG funds to be used as incentives for "luring" businesses from one locale to another. There had not been companion language in any of the Senate bills until last year. In 1999 the anti-pirating amendment became law.

Section 412. Prohibition on Use of Assistance for Employment Relocation Activities Section 105 of the Housing and Community Development Act of 1974 (42 U.S.C. 5305) is amended by adding at the following:

Prohibition on use of assistance for employment relocation activities— Notwithstanding any other provision of law, no amount from a grant under section 106 may be used for the purpose of directly soliciting or inducing relocation of any industrial or commercial plant, facility, or operation, from one area to another area, if the relocation will directly result in an increase in the unemployment rate in the labor market area from which the relocation occurs.

How will this impact a community's CDBG program?

The following is an example of the problems that could arise. A city could have an industrial development division that is specifically designed to attract new businesses to the community. CDBG funds could be used to improve an industrial park, provided that at least 51 percent of the jobs created are targeted to lower income persons. If a business moves into this park and the unemployment rate rises in the area from which the business moved from, the city could be in violation of the aNTI-pirating amendment, regardless of when the industrial park was completed. There is no time limit on when the CDBG funds were used to makes improvements to this industrial park.

HUD feels that this amendment would be difficult to enforce, as they would have to prove the community directly solicited the relocation of a business and that CDBG funds were used as an enticement for the relocation. HUD is also charged with defining "area" and "labor market" as it puts together its regulations.

From all indications, the regulation that HUD has proposed should give Congress the comfort level it needs to ensure that CDBG funds are not used to entice businesses to relocate from one area to another, and that grantees with very active business and industrial development departments are not hamstrung by overly burdensome regulations.

HUD, working with the Department of Labor, has defined "area" as the Metropolitan Statistical Area, and "labor market" as that provided by the U.S. Department of Labor to assess the impact on the unemployment rate if a business relocation occurs. Because we could not get an advanced copy of the regulations, these two items are very key to how the grantees will be able to administer their economic development programs should a question of the use of CDBG funds for business relocation arise.

HUD staff hope to have the proposed rule published before the end of the year. This may be an ambitious schedule, as Congress is scheduled to adjourn next Friday and the proposed rule must go through Congressional review as well as receive a sign-off from OMB. As always, NCDA will keep you informed as we learn more.

MARSHA DODGE RETIRES FROM HUD

NCDA is sad to report that Marsha Dodge will retire from HUD on October 29. Marsha has been with HUD for the past 33 years. She left HUD briefly in the early 70's to work for state and local government interest groups on the issue of general revenue sharing. She returned to HUD shortly thereafter to continue her career as a public servant. During her career at HUD, Marsha worked in the areas of financial management, with UDAG, and in field operations. Marsha has served as the Director of the Office of Affordable Housing Programs for the past two years where she has been responsible for administering the HOME Investment Partnerships Program and aiding with the incorporation of the HOME program into IDIS. Marsha was the Deputy Director of the Office of Affordable Housing Programs for 10 years prior to her appointment as Director. NCDA would like to thank Marsha for all of her great work with entitlement jurisdictions on the HOME program. She has been a great asset to HUD and to the program. We wish her well.

LEAD-BASED PAINT TRAINING DATES ANNOUNCED

HUD has set the dates for its upcoming training on the Lead-Based Paint Final Rule. A complete list of the dates and locations has been attached to this newsletter. The training dates are also posted to NCDA's web site at www.ncdaonline.org. A total of 26 training sessions have been scheduled so far, but NCDA has been told by HUD to expect another 27 training sessions later next year (spring/summer). HUD plans to complete all of the training sessions by the first week in August 2000. NCDA strongly encourages all of its members who administer CDBG and HOME, or who will otherwise be involved in lead-based paint abatement, to attend one of the training sessions. The three-day training course will cover all of the requirements of the Lead-Based Paint final rule, which will become effective on September 15, 2000. Grantees must begin complying with the rule on this date, so it is important to attend one of the training sessions prior to this date. CDBG, HOME, and Continuum of Care grantees

should have received a brochure and registration form from HUD on the training. Grantees are encouraged to register as early as possible. HUD has advised NCDA that it will most likely be easier for grantees to get into one of the earlier training sessions, as most grantees are not expected to register for the earlier sessions.

Each Chief Elected Official (CEO) of every CDBG and HOME entitlement jurisdiction received a letter from Assistant Secretary Cardell Cooper explaining the new lead-based paint regulations and the need for CDBG and HOME staff from the jurisdiction to be trained on the new regulation. The Chief Elected Official also received information on the number of training slots available to their particular jurisdiction. Each entitlement jurisdiction will receive a minimum of two training slots, with larger jurisdictions receiving more slots. In addition, the CEO also received the Priority Enrollment Form which indicates which staff from the jurisdiction will attend the training. This form needs to be completed and sent back to ICF Consulting, the company that is coordinating the training on behalf of HUD (see your training materials for their address or fax number). The Priority Enrollment Date is the date by which only those persons selected by the jurisdiction to attend the training can register. After that date, the training is open to other staff who want to attend the training, if slots are available. *Grantees must contact their Chief Elected Official's office to find out how many training slots are available and to coordinate the completion of the Priority Enrollment Form.*

Grantees should also be aware that the prohibited practices portion of the final rule becomes *effective on November 15, 1999.* This portion of the rule relates to prohibitions against using dangerous methods of removing lead-based paint, such as dry scraping. Please read this portion of the rule and be aware of its contents. All other portions of the rule become effective on September 15, 2000.

HUD AWARDS LEAD HAZARD CONTROL GRANTS

Five states and seventeen units of local government received funds under HUD's Lead Hazard Control Grant competition, which were announced by Secretary Cuomo today. The funds will be used to remove lead-based paint in privately owned low-income housing. The announcement comes during the first annual National Childhood Lead Poisoning Prevention Week. The following states and local governments received awards: Phoenix, AZ - $2.9 million; State of California - $4 million; San Diego County - $1 million; Denver, CO - $1 million; Norwich, CT - $3.4 million; Manchester, CT - $1 million; State of Delaware - $2.7 million; State of Illinois - $2 million; Chicago, IL - $4 million; St. Clair County, IL - $2.8 million; Baltimore, MD - $2.9 million; Prince George's County, MD - $1 million; State of Massachusetts - $1 million; Lowell, MA - $2 million; Cambridge, MA - $2.8 million; Omaha, NE - $2 million; Hudson County, NJ - $3.5 million; Albany, NY - $4 million; Syracuse, NY - $4 million; Toledo, OH - $1 million; Mahoning County, OH - $2.9 million; and the State of Wisconsin - $4 million.

FEDERAL REGISTER NOTICES

October 26, 1999. Notice and Solicitation of Comments. HUD announces a public meeting and requests public comments on a draft report which identifies the variances between the Fair Housing Act's design and construction requirements and the National Building Code, Uniform Building Code,

Standard Building Code, and International Building Code First Draft. The draft report is a precursor to a final report that HUD will deliver to the House of Representatives by December 31, 1999. The public meeting will be held on November 10 at 2 p.m. at HUD headquarters, 451 7th Street, S.W., Washington, D.C. in the south side of the cafeteria on the ground floor of the HUD building. The meeting will be broadcast in HUD field offices. To make a reservation to attend the meeting, contact Juanina Harris at 202-619-8046. To view the meeting via broadcast, contact your local HUD field office. Written public comments will be received until the close of business on Monday, November 15. Written comments should be sent to Cheryl Kent, Director, Program Compliance and Disability Rights Support Division at 451 Seventh Street, SW, Room 5240, Washington, D.C. 20410-0500.

October 21, 1999. Public Housing Agency Plans. This final rule makes final the policies and procedures described in the February 18, 1999 interim rule, taking into consideration the public comments received on the interim rule.

October 20, 1999. Recommendations From the Metropolitan Area Standards Review Committee to the Office of Management and Budget Concerning Changes to the Standards Defining Metropolitan Areas. The Office of Management and Budget (OMB) requests comments on recommendations that is has received from the Metropolitan Area Standards Review Committee (MASRC) for changes to OMB's metropolitan area standards. The metropolitan area (MA) program has provided standard statistical area definitions at the metropolitan level for 50 years. The MA standards are reviewed and, if warranted, revised in the years preceding each decennial census. In the fall of 1998, OMB chartered the Metropolitan Area Standards Review Committee and charged it with the tasks of examining the current MA standards and providing recommend-ations for possible changes to those standards. This notice seeks public comments on the recommendations from the MASRC. Written comments on the recommendations should be forwarded to James D. Fitzsimmons, U.S. Bureau of the Census, IPC-Population Division, Washington, D.C. 20233-8860, fax (301) 457-3034.

JOB OPPORTUNITIES/ATTACHMENTS

- **LEAD-BASED PAINT TRAINING DATES**