NCDA
WASHINGTON REPORT

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**DATE:** December 3, 2004

***NCDA 2005 Winter Legislative and Policy Meeting; January 18-20, 2005 at the Wyndham Hotel***
***NCDA Annual Conference; May 16-21, 2005 at the Hyatt Regency Hotel in Austin, Texas***

***FEATURED ARTICLES***

- ***Congress Approves FY 2005 Budget: Most HUD Programs Cut***
- ***President Bush Plans Overhaul of Tax Code***
- ***HUD Issues Interim Rule on Homeownership Affordability Requirements***
- ***HOME Update: American Dream Downpayment Initiative***
- ***HUD News: HUD Requires DUNS Numbers for All Programs;***
- ***NCDA Notes: NCDA 2005 Winter Legislative and Policy Meeting; January 18-20, 2005, at the Wyndham Hotel***
- ***Attachments: Final Winter Legislative Meeting Agenda; HOME 15th Anniversary Celebration Agenda***
- ***Federal Register Notices***
- ***Job Announcements***

## CONGRESS APPROVES FY 2005 BUDGET: MOST HUD PROGRAMS CUT

In the wee hours of the morning of November 20th, Congress passed the Fiscal 2005 Omnibus Appropriations Bill, HR 4818. Passage of this monster bill in the amount of $388 billion, will fund 13 governmental departments and dozens of domestic agencies, occurred after two contentious issues were resolved. The first issue that threatened passage was last minute objections from abortion rights advocates who were outraged when Senate negotiators unexpectedly agreed to a House backed provision that opponents described as part of a broad strategy by Republicans and social conservatives to “chip away” at abortion rights. The provision would bar federal, state and local agencies from forcing doctors, hospitals, insurers, HMOs or other health care entities to provide abortion services or referrals. House Minority Leader Nancy Pelosi contended the “Roe v.Wade is the law of the land, but Republicans are gutting it step, by step.”

Republicans denied that the legislation would restrict access to abortion and said it is only intended to prevent government agencies from "intimidating" health care entities that did not perform abortions or provide training or referrals. This language remains in the bill, however, Senate opponents agreed not to block passage of the bill after Majority Leader Senator Bill First (R-TN) promised to schedule a vote in the near future on a bill drafted by Senator Barbara Boxer to repeal the provision. That vote is expected to occur in the second "lame duck" session of the 108th Congress next week.

To further complicate passage of this bill was a last-minute fracas, which amounted to an"ohmygod I can't believe this got in there," issue cause by a little provision that was slipped in by a House staffer, that would allow agents designated by the chairman of the House or Senate to look at and examine personal income tax returns. Senator Diane Feinstein (D-CA) described the provision as a "terrible, egregious abuse of power," and many GOP Senators joined in the fray to denounce it.

In an effort to quickly rectify the situation and get the bill passed Senate Appropriations Committee Chairman Ted Stevens (R-AK) took the floor to apologize and promised that the provisions would be removed and corrected. An obviously angry Stevens, shouted on the Senate floor that inserting this provision without his knowledge was "...wrong."

After this last little issue was taken care of Congress passed another Continuing Resolution, as the last CR was due to expire at midnight, to ensure that the federal government could continue to operations until the President signed the spending bill next week.

House Appropriations chairman Bill Young (R-FL) described the bill as a "lean and clean package" and was particularly proud that the Congress had kept domestic spending within the one percent growth rate, using the baseline from FY 2004 spending, that the President wanted. Chairman Young was delighted largely because the President had threatened to veto any bill that had higher spending levels. Still, it took an across-the-board spending cut of 0.83 percent to achieve this illustrious goal.

### *HUD Programs*

Looking at this year's appropriations bill for HUD programs will press state and local governments to find anything to be proud of. The overall funding level of HUD's budget is up by about $838 million which will fully fund Section 8 contract renewals, however CPD programs were cut by $378 million. To provide additional funding for veterans health care, NASA, and education and still manage to stay within the approved discretionary spending cap, Congress approved a 0.83% across-the-board cut to all domestic programs. Lawmakers have used this tool in recent years to trim appropriations and ensure the President's signature. In addition to the across-the-board cut, some programs were reduced further, including most of HUD's programs.

The following provides a quick look at HUD's programs, with the 0.83 percent cut:

***CDBG -- $4.671 billion with $4.115 billion in formula grants, down $216 million from FY04;***

***Section 108 loan guarantee authority -- $272.7 million, the same level as last year;***

***HOME -- $1.899 billion, including $1.849 billion in formula grants, $31 million below the FY04 level, plus an additional $49.6 million in ADDI funds [which is $37.3 million below the FY04 level];***

***Homeless Assistance programs -- $1.23 billion, $30 million below the FY04 level; Brownfields -- $23.8 million, approximately the same as FY04;***

***HOPWA -- $281.6 million, almost $12 million below FY04; Section 8 -- $20 billion -- almost $700 million above the FY04 level;***

***Section 202 elderly housing -- $740.7 million, almost $34 million below last year's enacted level;***

***Section 811 disabled housing -- $238 million, approximately $11 million below the FY04 level;***

***Public Housing Operating Fund -- $2.439 billion, approximately $1 billion below last year's level [public housing agencies will convert to a calendar basis, instead of a unit basis -- which saves approximately $1 billion in FY05); and***

***Public Housing Capital Fund -- $2.578 billion, approximately $118 million below the FY04 level.***

In addition to the cuts to CDBG and HOME, approximately 10 new entitlement communities will become eligible to receive CDBG funds in FY05 and 7 communities in the HOME program. This does not mean, however, that they will all choose to participate in the program. It only means that they are eligible. According to CPD's Bob Meehan, some of the eligible communities from last year have not chosen to administer the CDBG program. We will have HUD officials update us on this issue at the Winter Conference on January 19-20.

It is also important to note that Congress choose not to cut the $262 million in House and Senate project earmarks. These projects will remain intact as proposed. *(NCDA will provide an internet location of these projects as soon as the President signs the bill.)* Since the President has not signed the bill yet and House and Senate staffers are working on "fixing" the questionable language in the bill that relates to income tax returns and abortion, a clean copy with all the earmarks has not been made available. It is estimated that the 3,000-plus page omnibus appropriations bill contains $33 billion in project earmarks, that's is very close to the entire amount of HUD's budget, which is $36.2 billion. Please see the budget chart attached to this newsletter. Also note that all the set-asides are not listed in detail. We will provide a complete list of the earmarks and an internet location of the entire HUD budget for FY 2005.

**PRESIDENT BUSH PLANS OVERHAUL OF TAX CODE**

President Bush is already setting out to make good on at least one of his re-election campaign promises, to overhaul the federal tax code to favor individual investment and economic growth. The President is investigating an overhaul of the tax code that would drastically cut, if not eliminate altogether, taxes on savings and investments, but would unlikely replace the existing tax code with a single flat income tax rate or national sales tax as the rumors have suggested.

Much interest and rhetoric ensued with debates on progressive versus regressive tax systems, who would benefit most in either scenario, and of course how long would an overhaul of the tax code take. The idea of a national sales tax caused the President to respond ..."an interesting idea,"indicating that all options were on the table for consideration. Now that the election is over and Mr. Bush still calls 1600 Pennsylvania his home away from home, it is clear that tax policy will be a centerpiece of his domestic agenda. The President is determined to put together a bipartisan panel to draft a fundamental tax reform proposal. It is expected that the an Executive Order will be issued by the end of the year, that will outline the panel's mission and name its members.

As one might guess, even as the President's staff search high and low for democrats and republican, conservatives and liberals to serve on this panel, pundits and economist are jockeying for positions on the panel. And, the Administration's officials are scaling back expectations of what was reputed to be a complete tax system overhaul into something that could look more like amendments to the current system. These amendment might include eliminating or reducing the taxing on earned interest, on dividends and capital gains, as well as expanding tax breaks for business investments and other steps to simplify the system to encourage economic growth. It appears that these sweeping changes would expand on what has already occurred during the past four years, except that any "new" changes would be "revenue neutral." Revenue neutral, in this case, means that any revisions to the tax code would have a zero impact on the amount of tax income going into the federal treasury every year, outside of a market driven boost in the economy.

The Administration would propose to pay for these new reforms by eliminating the deduction of state and local taxes on federal income tax return and scrapping the business tax deduction for employer-provided health insurance. There was also a discussion about eliminating the mortgage interest tax deduction. This, the "sacred cow" of American homeownership, will always be a tough act to sell, to conservatives and liberals alike.

As mentioned above, the suggested changes would be more of the same, in that they would expand on the tax cuts that have been the mainstay of the Administration, and benefit the same targeted businesses, and individuals who are reputed to be adversely impacted by taxes on interest and business investments.

According to an article in *The Washington Post,* some parts of the plan have already taken shape, such as lowering individual and corporate tax rates and steps to broaden the base of taxation and promoting growth by cutting taxes on investment.

***Analysis***

Any changes to the current tax system that would likely reduce the amount of revenue going into the federal treasury, even in the short term, will have a negative impact of federal budget. Less taxable revenue, equals less money into the treasury less money for the federal budget. There is no way around it. This means that if spending is to be continued at the present level, with the annual 1 percent annual increases, which is less than the inflation rate, deficits will continue to rise and/or programs will have to be cut. If modest economic growth continues and unemployment gets under 4.5%, and these suggested cuts are implemented, particularly the mortgage interest deduction, housing sales will begin to slow. And for most people, especially middle class and lower income person, the mortgage interest deduction is the often only reason for homeownership, which is the housing initiative of the current administration, particularly for lower income and minority households. Other programs the rely on investment and tax incentives, such certain bond programs, Industrial Revenue Bonds (IRB) and programs like the Low Income Housing Tax Credit (LIHTC) would deal a severe blow to state and local governments that "piggy back" federal programs with state and local incentives. State and local governments will see great reductions in their ability to create affordable housing and economic investment if a new tax code adversely impacts programs of this nature.

Lastly, we are still at war. We are fighting wars on two fronts, and for the past two years, we have had supplemental appropriations bills to cover costs of military actions in Iraq and Afghanistan, although off budget, but still adds to the deficit which is expected to set another dubious record this year of $417 billion. The new Senate Budget Chairman, Judd Gregg (R-NH) is expected to be very miserly in his approach to spending, and wants to seriously address the deficit. In order to accomplish this laudable goal, the budget will have to be trimmed and programs will have to be cut.

Still, it is very early in the process. In fact, nothing is on paper or on the "table" for debate, but one thing is clear, the Congress has more seats that are Republican, and if there was ever a time for a President to push his agenda, it is now. So please keep these issues in mind so that when the opportunity to meet with your Congressional Delegation presents itself, offering suggestions on supporting our core housing and community development programs is a must. We must alert Congress to the impacts of the programs they hold dear at home, should they implement a drastic change in the tax code that reduces the overall amount of federal revenue.

## HUD ISSUES INTERIM RULE ON HOMEOWNERSHIP AFFORDABILITY REQUIREMENTS

In June 2003, HUD informed HOME participating jurisdictions through the issuance of its *HOMEFires* publication, that they were required to repay HOME funds on a homebuyer unit or rental project that went into foreclosure during the HOME affordability period. Needless to say, NCDA and its members had always understood just the opposite; that HOME funds did not have to be re-paid in these instances. NCDA, in collaboration with the National Council of State Housing Agencies (NCSHA) – which also felt this policy was in error, went on a mission to have HUD change this policy. HUD has decided to provide some relief to participating jurisdictions on this issue through the release of an interim rule **[Docket No. FR-4940-1-01] in the *Federal Register* on November 22, 2004.** This interim rule becomes effective on December 22, 2004. While the interim rule only provides relief to HOME-assisted homebuyer projects, it is a step in the right direction in reversing HUD's policy on repayment of HOME funds.

This interim rule revises part 92.254 of the HOME program regulation to clarify that recaptures are limited to the amount of the net proceeds available at the sale of a HOME-assisted homebuyer property. In essence, for HOME-assisted homebuyer properties that are sold prior to the completion of the affordability period, participating jurisdictions are only responsible for repaying HUD whatever is recaptured at the sale of the property, whether it be enough to repay the entire HOME investment or not. This reverses HUD's previous policy, issued in the June 2003 *HOMEfires*, which said that participating jurisdictions were required to repay the entire HOME investment.

This rule also allows participating jurisdictions to invest more HOME funds in HOME-assisted properties that are going into foreclosure. Currently, the regulations disallow participating jurisdictions from this option. According to the interim rule, the additional HOME funds may be used by the participating jurisdiction to acquire the housing through a purchase option, right of first refusal or other preemptive right before foreclosure, to undertake rehabilitation of the property, and to provide assistance to another eligible homebuyer.

While NCDA is very appreciative of the efforts that HUD has made to change the direction of the June 2003 *HOMEfires* to better assist participating jurisdiction with their hombuyer projects, it still does not address three important areas: rental projects, hold harmless, and non-compliance. The issuance of this rule still begs the question of "what will HUD do to alleviate this issue for HOME rental projects?" At a meeting of HOME technical assistance providers in September 2004, HUD told the group that it has found a lot of poor underwriting in HOME-assisted rental projects and this poses a greater risk for project default. With the risk of default, comes the risk of participating jurisdictions having to repay their HOME investment in these projects. Rental projects usually involve a much larger investment of HOME funds and therefore carry a longer affordability period by the participating jurisdiction than homebuyer projects. This is a serious concern that must be addressed at some level. We have been told by HUD's Office of Affordable Housing Programs that it is in the process of developing guidance on "troubled" HOME rental projects.

The interim rule also does not address the issue of hold harmless. HUD told NCDA that it would issue guidance that would "hold harmless" participating jurisdictions from having to repay funds in previously funded projects. We thought this guidance would be included in this interim rule, but it appears that HUD will now issue separate guidance on this issue, possibly in a future *HOMEfires*.

Another serious issue for participating jurisdictions that is not addressed in this interim rule is that of repaying HOME funds in situations of non-compliance on the part of a homebuyer during the affordability period. In the June 2003 *HOMEfires*, HUD says, "...Please note that in the case of noncompliance other than foreclosure (e.g., the homebuyer is no longer using the property as a principal residence), the amount the participating jurisdiction must repay is the entire HOME investment rather than the amount due under the written agreement." According to HUD, this requirement is part of the HOME rule at 92.503. This is a serious issue for jurisdictions that use their HOME funds to assist first-time homebuyers because HOME program regulations do not require financial or occupancy monitoring of the homebuyer once they purchase the unit. Therefore, a participating jurisdiction may never know if a homebuyer has not complied with the program regulations (e.g., continued to live in the property).

HUD will accept comments on this interim rule until January 21, 2005. While NCDA will submit comments on our concerns, we also ask our members to provide their comments on this rule both to HUD and to NCDA, directly. We would like to incorporate your comments into ours so that we can provide a single, comprehensive response to HUD. HUD will use these comments to construct a final rule on this issue, so your direct comments to HUD are extremely important. Please forward your comments directly to Vicki Watson at vicki@ncdaonline.org on or before **January 10, 2005.**

## HOME UPDATE: AMERICAN DREAM DOWNPAYMENT INITIATIVE

HUD's Office of Affordable Housing Programs is working on a final rule on the American Dream Downpayment Initiative. It is expected that this rule will be published in the Spring 2005. HUD is also working on a proposed rule to the HOME program that would make changes in the area of CHDO performance and CHDO reservations as well as in other areas. This rule will likely not be completed until the Summer of 2005.

HUD's Office of Affordable Housing Programs plans to provide HOME training deliveries in 2005. These deliveries are based on requests HUD has received from various field offices for training in the following areas: (1) All the Right Moves – Relocation; (2) Monitoring HOME; (3) HOME and CDBG; (4) Advanced HOME. A minimum of 25 people in attendance will be needed for HUD to deliver the training sessions.

NCDA staff will provide a further update on these and other issues at the Housing Committee meeting during NCDA's Winter Conference on January 20.

## HUD NEWS

### HUD REQUIRES "DUNS" NUMBERS FOR ALL PROGRAMS

On November 9, 2004, HUD published in the Federal Register a final rule on the previously published Interim Rule date March 26, 2004.

On March 26, 2004, HUD published an interim rule implementing an Office of Management and Budget (OMB) policy directive that requires grant applicants, other than individuals to provide a Data Universal Numbering System (DUNS) number when applying for federal grants or other assistance agreements on or before October 1, 2003. HUD is applying this policy widely to its assistance programs in order to have a single identifier for applicant and to facilitate the transition to electronic application submission. This final rule follows publication of the March 26, 2004, interim rule. HUD did not receive any comments on the interim rule and, therefore, is adopting the interim rule with out change. ***It becomes effective on December 9, 2004.*** Now we all know what a "DUNS" number is and why we need one. For more information on this issue, please see the *Federal Register* of November 9, 2004 under the Department of Housing and Urban Development.

## NCDA NOTES

### 2005 NCDA WINTER LEGISLATIVE AND POLICY MEETING AND 15TH ANNIVERSARY CELEBRATION OF THE HOME PROGRAM

On January 18-20, 2005 NCDA will hold its annual Winter Legislative and Policy Meeting. However, this year's meeting promises to be especially exciting in that NCDA will recognize the achievements of the HOME program with a new award, the **Terrence R. Duvernay "Terry" HOME Program Awards of Excellence.** This award will bring special recognition to those member communities that have outstanding HOME programs. We chose to honor Terry Duvernay because of his lifelong commitment as a housing advocate as well as Past President of NCDA. This year Freddie Mac will sponsor the awards, which will be distributed by Mr. Dwight Robinson, Senior Vice President of Corporate Relations, at an awards breakfast held on Wednesday from 8-10 a.m. at the Hart Senate Office Building in room 902.

### HOME 15TH ANNIVERSARY CELEBRATION

HUD will celebrate the 15th anniversary of the HOME Program on January 18, 2004 during NCDA's Winter Legislative and Policy Meeting. We urge our members which administer the HOME program to join in this celebration. To register for the conference, please go to NCDA's website at www.ncdaonline.org . ***There is no charge for the one-day HOME celebration conference on January 18, 2004.***

## NCDA'S PRE-INAUGURAL RECEPTION

It is customary for NCDA to hold its Winter Legislative and Policy Meeting in conjunction with the US Conference of Mayors Winter Meeting. The same holds true this year, however many of our members have a desire to attend inaugural events on Thursday, January 20th. This is an excellent opportunity to go along with your Mayor or other elected officials to speak with Congressional staff and members of Congress attending these events. Therefore, in order to accommodate everyone, we decided to hold our inaugural event the day before the actual inauguration on Wednesday, January 19, 2005. Look for your invitation to NCDA's Pre-Inaugural Reception in the mail.

### *ATTACHMENTS AND JOB ANNOUNCEMENTS*

- ***NCDA Winter Legislative and Policy Meeting Agenda and Registration Form***
- ***HUD's 15th Anniversary Celebration of the HOME Program Agenda***
- ***Federal Register Notices***

# REMINDER!!!

**THERE IS NO CHARGE FOR THE HOME 15$^{\text{TH}}$ ANNIVERSARY CELEBRATION BEING HELD ON TUESDAY, JANUARY 19, 2004.**

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**U.S. Department of Housing and Urban Development**

| Program | FY04 Enacted | FY05 President's Request | FY 05 Enacted |
|---|---|---|---|
| Community Development Fund | $4.921 billion | $4.618 billion | $4.671 billion |
| ***Set-Asides:*** | | | |
| Native American CD Grants | $72 million | $72 million | $68.427 million |
| NCDI | $35 million | $30 million | $33.5 million |
| Section 107 | $52 million | $35 million | $43.337 million |
| Housing Assistance Council | $3.3 million | $3 million | $3.272 million |
| Native Am. Indian Council | $2.5 million | $2 million | $2.380 million |
| NHDC | $5 million | $0 | $4.760 million |
| National Council of La Raza | $5 million | $0 | $4.760 million |
| SHOP | $27 million | $65 million | $24.792 million |
| Youthbuild | $65 million | $65 million | $61.485 million |
| Special Olympics | $0 | $0 | $1.834 million |
| EDI Special Purpose Grants | $278 million | $0 | $262 million |
| Neighborhood Initiatives | $21 million | $0 | $41.99 million |
| Working Capital Fund | $4.9 million | $1 million | $3.436 million |
| Development Challenge Grants | $0 | $10 million | $0 |
| Faith Based Pilot | $0 | $5 million | $0 |
| ***Total Set-Asides*** | ***$570.7 million*** | ***$288 million*** | *$560 million** |
| Formula Grants | $4.350 billion | $4.330 billion | $4.111 billion |
| HOME | $2.006 billion | $2.084 billion | $1.8495 billion |
| ***Set-Asides:*** | | | |
| ADDI | $87.5 million | $200 million | $49.6 million |
| Housing Counseling | $40 million | $0 | $41.65 million |
| Technical Assistance | $18 million | $18 million | $17 million |
| Working Capital Fund | $2.1 million | $2 million | $1.983 million |
| ***Total Set-Asides*** | ***$147.6 million*** | ***$220 million*** | ***$110.233 million*** |
| Formula Grants | $1.858 billion | $1.864 billion | $1.747200 billion |
| HOPWA | $295 million | $295 million | $281.6illion |
| Rural Housing & Econ.Dev. | $25 million | $0 | $23.980 million |
| Round II EZ/ECs | $14.9 million | $0 | $9.917 million |
| Section 108 | $7.282 million | $0 | $5.95 million |
| Brownfields | $24.8 million | $0 | $23.4 million |
| HOPE VI | $149 million | $0 | $1482.804 million |
| Public Housing Operating Fund | $3.579 billion | $3.573 billion | $2.439 billion |
| Public Housing Capital Fund | $2.696 billion | $2.674 billion | $2.5878billion |
| Indian Housing Block Grant | $650 million | $647 million | $62.179 million |
| Section 202 | $774 million | $773 million | $740.7million |
| Section 811 | $249 million | $249 million | $238 million |
| Homeless Programs | $1.260 billion | $1.282 billion | $1.23 billion |

| | | | |
|---|---|---|---|
| Fair Housing | $47.7 million | $47.7 million | $19.834 million |
| Lead Hazard Control | $174 million | $139 million | $166.660 million |
| Housing Certificate Fund | $19.257 billion | $18.466 billion | $20 billion |
| Samaritan Initiative | $0 | $50 million | $0 |