

[COMMITTEE PRINT]

108TH CONGRESS }
1st Session } HOUSE OF REPRESENTATIVES {

CHANGES IN LAW TO ELIMINATE WASTE, FRAUD, AND
ABUSE

JULY 24, 2003.—Approved by the Committee on Financial Services.

Mr. OXLEY, from the Committee on Financial Services, submitted
to the Committee on the Budget the following

R E P O R T

together with

DISSENTING VIEWS

Pursuant to section 301 of the Conference Report to Accompany the Concurrent Resolution on the Budget for Fiscal Year 2004 (H.Con.Res. 95; H. Rept. 108-71), the Committee on Financial Services is transmitting herewith its findings on means of eliminating waste, fraud, and abuse in spending programs under the Committee's jurisdiction.

Section 301 of the resolution requires committees to "submit findings that identify changes in law within their jurisdictions that would achieve the specified level of savings through the elimination of waste, fraud, and abuse" in mandatory programs. Along with all Committee chairmen, the Chairman of the full Committee announced his intention to meet the goals of section 301 with respect to all programs under the Committee's jurisdiction, not just mandatory programs.

UNLIQUIDATED OBLIGATIONS IN HOUSING PROGRAMS

On June 25, 2003, the Subcommittee on Oversight and Investigations held a hearing entitled, "Saving Taxpayer Money Through Sound Financial Management." The focus of this hearing was to identify current and quantifiable savings in appropriated funds under the Committee's jurisdiction which could be easily recaptured to meet the goals of the budget resolution. Upon a review of

the pertinent agencies, the Committee concluded that savings can be most readily identified in funds labeled as “unliquidated obligations.” Unliquidated obligations are funds that are appropriated and obligated for a function but, for a variety of reasons, never actually disbursed. By their nature, grant and subsidy programs and long-term contracts maintain a high level of unliquidated obligations at any given time. Through vigilant oversight of the status of individual grants, subsidies, and contracts, senior agency managers can recapture unliquidated obligations and either apply them for other purposes and reduce future appropriations, or deobligate them. The funds can be recaptured without any changes to program eligibility or any cuts to program functions or personnel.

Based on these criteria, the programs under the Committee’s jurisdiction which are most likely to have high levels of unliquidated obligations are the Section 8 and Section 236 rental assistance programs at HUD and the rural rental assistance program at the Rural Housing Service (RHS) of the Department of Agriculture. Committee staff, senior HUD and RHS officials, the Inspectors General of HUD and the Agriculture Department, and the GAO are collaborating to determine the amount of unliquidated obligations that could meet the goals in the budget resolution without changes to the programs.

Department of Housing and Urban Development

At the hearing, the Chief Financial Officer of the Department of Housing and Urban Development (HUD) testified on the level of unliquidated obligations at HUD. The Chief Financial Officer announced that for FY 2004 alone, over \$1.7 billion in previously appropriated and obligated funds most likely will not be used for the purposes appropriated. It has proposed to use these funds to lower (offset) what would have been the total cost of the HUD appropriations request in FY 2004 by this amount.

As of the end of May this year, HUD held \$108 billion dollars in unexpended appropriated funds, more than 3 times its requested appropriation for FY 2004. Of these balances, \$34 billion has yet to be awarded and obligated by HUD, primarily because Congress enacted the FY 2003 Appropriations Act in February of 2003.

The Chief Financial Officer also discussed the detailed measures that her office has undertaken to reduce unliquidated obligations and outstanding balances in other areas. For instance, since December 2001, total funds not committed to specific public housing authority modernization projects have fallen from \$3.4 billion to \$700 million as of March 31, 2003, meaning that the funds have been committed and spent more quickly.

With respect to the long-term outlook (FY 2004-2013), HUD currently has an additional \$40 billion in funds that are owed (mainly to landlords and multi-family project owners) that provide subsidized housing to millions of families across the country. It is not clear to what extent some of these funds will not be needed in the future. Originally, Congress appropriated the full cost of these rental subsidy programs based on a certain set of economic assumptions, such as inflation and wages of tenants. These may or may not bear out over the many years left on the contracts HUD has with the owners. Hence decisions on the amount of excess that

will be available have to be made on a year-by-year basis and can not be presumed ahead of time.

The Committee also requested and received a statement for the record from the Inspector General of HUD on his office's initiatives to detect and prevent waste, fraud, and abuse. The Inspector General stated that HUD is not recapturing unliquidated obligations and undisbursed contract authority in a timely manner.

Additionally, the Inspector General noted that HUD identified significant errors in the billings and payments processes, which also results in excess rental subsidy payments. The GAO now lists rental subsidy overpayments as one of the Department's high risk areas. While the amount attributable to fraud is unknown, the Department estimates losses linked to improper housing assistance payments to exceed one billion dollars annually. The OIG announced a new effort to detect and prevent fraud in housing assistance programs.

Department of Agriculture

The Under Secretary for Rural Development at the Department of Agriculture, a program also under the Committee's jurisdiction, also testified at the hearing on the level of unliquidated obligations in the Section 521 Rental Assistance Program. The Section 521 Program currently helps 264,000 households to maintain their rental residence by providing a subsidy to pay the difference between the basic rent for the apartment and up to 30 percent of an eligible tenant's income. The General Accounting Office is reviewing the Section 521 Program and has raised concerns about the unliquidated balances on the 20-year contracts and 5-year contracts on which rental assistance payments continue to be paid on units beyond the original terms.

The Office of Rural Development determined that there is \$737,000,000 outstanding on active contracts that were obligated between 1978 and 1998. These funds are only available for the current contracts or may be transferred to other units on existing contracts. At the hearing, the Chairwoman of the Oversight and Investigations Subcommittee announced that the Committee has asked the GAO to review the contracts in question and determine how much of the \$737 million outstanding can be deobligated through legal action or, if needed, legislation.

CONCLUSION

In its review of its programs, the Committee found that in one of its largest categories of spending—housing assistance programs—the agencies have significant unliquidated obligations which, if deobligated or otherwise recaptured, could result in significant savings without meaningful reductions in program services. This ensures that both the Department of Housing and Urban Development and the Department of Agriculture can continue to serve their customers while assisting in efforts to reduce the deficit.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on July 23, 2003 and considered a committee print entitled "Changes in Law to Eliminate Waste, Fraud, and Abuse". On July 24, 2003, the Committee agreed to a motion by Mr. Oxley to approve the Committee print and forward it to the Committee on the Budget by a voice vote.

COMMITTEE VOTES

A motion by Mr. Oxley to report the bill to the House with a favorable recommendation was agreed to by a voice vote. The following amendment was considered by a record vote. The names of Members voting for and against follow:

An amendment by Mr. Meeks, no. 1, recommending elimination of the public housing community service requirement, was not agreed to by a record vote of 29 yeas and 30 nays.

Record vote no. FC-10

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Oxley		X		Mr. Frank (MA)	X		
Mr. Leach				Mr. Kanjorski	X		
Mr. Bereuter				Ms. Waters	X		
Mr. Baker		X		Mr. Sanders*	X		
Mr. Bachus		X		Mrs. Maloney	X		
Mr. Castle		X		Mr. Gutierrez	X		
Mr. King				Ms. Velázquez	X		
Mr. Royce		X		Mr. Watt	X		
Mr. Lucas (OK)		X		Mr. Ackerman	X		
Mr. Ney		X		Ms. Hoolley (OR)	X		
Mrs. Kelly		X		Ms. Carson (IN)	X		
Mr. Paul				Mr. Sherman	X		
Mr. Gillmor		X		Mr. Meeks (NY)	X		
Mr. Ryun (KS)		X		Ms. Lee	X		
Mr. LaTourette		X		Mr. Inslee	X		
Mr. Manzullo		X		Mr. Moore	X		
Mr. Jones (NC)		X		Mr. Gonzalez	X		
Mr. Ose		X		Mr. Capuano	X		
Mrs. Biggert				Mr. Ford			
Mr. Green (WI)		X		Mr. Hinojosa	X		
Mr. Toomey		X		Mr. Lucas (KY)			
Mr. Shays		X		Mr. Crowley	X		
Mr. Shadegg		X		Mr. Clay			
Mr. Fossella				Mr. Israel	X		
Mr. Gary G. Miller (CA)		X		Mr. Ross	X		
Ms. Hart				Mrs. McCarthy (NY)	X		
Mrs. Capito		X		Mr. Baca	X		
Mr. Tiberi		X		Mr. Matheson	X		
Mr. Kennedy (MN)		X		Mr. Lynch			
Mr. Feeney		X		Mr. Miller (NC)	X		
Mr. Hensarling		X		Mr. Emanuel	X		
Mr. Garrett (NJ)		X		Mr. Scott (GA)	X		
Mr. Murphy		X		Mr. Davis (AL)	X		
Ms. Ginny Brown-Waite (FL)		X					
Mr. Barrett (SC)		X					
Ms. Harris		X					
Mr. Renzi		X					

*Mr. Sanders is an independent, but caucuses with the Democratic Caucus.

DISSENTING VIEWS

Section 301 of the FY 2004 Budget Resolution requires committees to “submit findings that identify changes in law within their jurisdictions that would achieve the specified level of savings through the elimination of waste, fraud and abuse” in “mandatory programs.” Report language indicates that such submissions must “reduce outlays by an amount to be specified by the chairmen of the Budget Committees.”

The findings contained in this report fail in every respect to meet the requirements of Section 301 of the Budget Resolution. The “unliquidated obligations” that are the sole focus of these findings do not represent “waste, fraud, and abuse.” These obligations do not arise from “mandatory programs.” The admonition contained in the findings that agency managers recapture unliquidated obligations not needed for programs or services would not, by definition, reduce “outlays” by even a single penny. And, the findings do not identify any “changes in law.”

WASTE, FRAUD, AND ABUSE

Section 301 of the Budget Resolution requires submissions providing for the elimination of “waste, fraud, and abuse.” The findings in this report conclude that “savings can be most readily be identified in funds labeled as unliquidated obligations.” The report cites in particular the HUD Section 8 and 236 programs, and the Rural Housing Service (RHS) Section 521 program.

However, nowhere in either the written statement or oral testimony of either HUD’s Chief Financial Officer (CFO) or the RHS Undersecretary for Rural Development is there any showing that these unliquidated obligations in any way result from or lead to “waste, fraud, and abuse.”

Both of these Bush Administration witnesses explained that balances predominantly reflect funds that will be needed at a future date to meet expected obligations. If appropriated funds exceed expected obligations, they are routinely recaptured and used to offset the cost of other programs or used for purposes specified by Congress. The written statement of HUD’s CFO addresses the level of unexpended balances in HUD programs and concludes that “In the vast majority of cases, these unexpended funds are either fully committed to long-term projects and will be spending out normally for many years to come, or are obligations from relatively recent appropriations and could not reasonably be expected to have been expended at this time.

On the issue of Section 8 balances, in response to the question “Would you describe that as fraud or abuse or waste?”, the HUD CFO responded “Absolutely not.”

MANDATORY PROGRAMS

The title of Section 301 of the Budget Resolution specifically refers to waste, fraud, and abuse in 11 mandatory programs.” However, none of the programs cited in the hearing by either HUD or RHS are mandatory programs. Section 8, Section 236, Section 521, and the other programs discussed in the hearing are all discretionary programs. On this point, the “findings” are clearly non-responsive to the Budget Resolution directive.

OUTLAY SAVINGS

As noted, Section 301 report language clearly specifies that the findings must identify programmatic instances of waste, fraud, and abuse which reduce “outlays.” Yet, the recapture of unobligated balances which are not needed for future obligations, as recommended by the findings, would not achieve any outlay savings. This is because if the funds are not expected to be spent, under OMB and CBO rules there are no outlay savings from their rescission or recapture. The only scoreable reduction would be in budget authority.

CHANGES IN LAW

Section 301 requires committees to submit findings that identify “changes in law” to achieve the required savings. The findings being submitted herein identify no changes in law, only general admonitions to HUD and RHS to do a better job of tracking unobligated balances, in anticipation of their recapture. We are surprised that the majority thinks that the Bush Administration needs to be reminded of this, but telling HUD and the Agriculture Department to obey the law does not qualify as a change in the law.

FUNDING CUTS FOR HOUSING PROGRAMS

This is the most serious defect in the majority report. The findings in this report conclude that deobligation or recapture of unliquidated balances “could result in significant savings without meaningful reductions in program services.” We would be pleased if that were the case. But, the reality is that the substantial recapture of such balances in recent years has contributed to the substantial funding cuts to housing programs, which have marked the Republican record.

The FY 2004 VA-HUD appropriations bill recently adopted includes recapture of over a billion dollars in unobligated Section 8 budget authority. Yet, these funds did not shield HUD programs from program cuts. We believe there are insufficient funds in the FY '04 bill to fully fund Section 8 renewals, which would adversely affect both recipients and administrators. That bill also includes a devastating \$524 million cut in the public housing HOPE VI revitalization program.

Repeatedly, under Republican control, Congress has rescinded unobligated Section 8 funds in supplemental spending bills and diverted such funds for non-housing programs. According to preliminary data provided by CBO, Congress rescinded \$6.85 billion in Section 8 budget authority in supplemental spending bills from FY

1997 through FY 2002. The overwhelming majority of these rescissions were used to fund non-housing expenditures. These rescissions took place at a time when the majority party argued there were not enough funds in the budget for housing programs, and pushed through deep cuts in affordable housing programs.

Therefore, we are concerned that the findings in this report create the false impression that budget savings can be easily effected in housing programs through a better job of rooting out waste, fraud, and abuse, and without any effect on the families that rely on these programs. Cuts to programs such as public housing, Section 8, and rural rental housing have real consequences, denying critically needed rental assistance to low-income families, seniors, and the disabled, and permitting the unnecessary deterioration of our affordable housing stock.

BARNEY FRANK
PAUL E. KANJORSKI
CAROLYN B. MALONEY
LUIS V. GUTIERREZ
MELVIN L. WATT
JULIA CARSON
BRAD SHERMAN
JAY INSLEE
CHARLES A. GONZALEZ
MICHAEL E. CAPUANO
HAROLD E. FORD, JR.
RUBÉN HINOJOSA
JOSEPH CROWLEY
WM. LACY CLAY
STEVE ISRAEL
JOE BACA
STEPHEN F. LYNCH
BRAD MILLER
RAHM EMANUEL
ARTUR DAVIS.