

approved by HUD for demolition under Section 18 of the United States Housing Act.²⁷ However, the FY 2002 NOFA included a fourth priority group for units that are related to a prior-year revitalization award, which does not appear in the FY 2003 NOFA.²⁸

The Future of HOPE VI

While the FY 2003 NOFA continues trends from recent years, the future of the HOPE VI program is uncertain. The President's proposed FY 2004 HUD budget included no funds for HOPE VI.²⁹ It appears that funds will be appropriated for the program despite this, but the level of funding will likely be significantly lower than it is currently.³⁰ ■

Inspector General Faults HUD on Section 3

The Department of Housing and Urban Development (HUD) Inspector General (IG) surveyed HUD's administration of Section 3 of the Housing and Community Development Act of 1968 and issued a report critical of the department's performance.¹ The purpose of the survey was to determine whether HUD is administering Section 3 in a manner that ensures that it meets its intended purpose,² which is to provide jobs and economic opportunities to low-income and very low-income persons, particularly public housing residents, to the greatest extent feasible.

The report is short and provides little historical perspective, but it contains important findings and a schedule of future action with respect to Section 3 that HUD has committed to meet. These latter elements should provide a basis for effective implementation of Section 3 after decades of delay.

The key findings of the report include:

- (1) HUD has not implemented necessary controls for effective program oversight;³

Rescissions and Appropriations Act (OCRA) of 1996, Pub. L. No. 104-134, 110 Stat. 1321 (Apr. 26, 1996). This is not to be confused with required and voluntary conversion authorized under Sections 22 and 33 of the United States Housing Act. 42 U.S.C.A. §§ 1437t and 1437z-5 (West 2003).

²⁷42 U.S.C.A. § 1437p (West 2003).

²⁸67 Fed. Reg. at 16,676.

²⁹HUD, FISCAL YEAR 2004 BUDGET SUMMARY 21 (2003), at <http://www.hud.gov/about/budget/fy04/budgetsummary.pdf>.

³⁰H.R. CONF. REP. NO. 108-401 (West, WESTLAW, Nov. 25, 2003) (would set FY 2004 HOPE VI appropriation at \$150 million, one-third of its FY 2003 level).

¹ROGER E. NIESEN, HUD OFFICE OF INSPECTOR GENERAL, SURVEY OF HUD'S ADMINISTRATION OF SECTION 3 OF THE HUD ACT OF 1968 (2003) (Audit No. 2003-KC-0001).

²12 U.S.C.A. § 1701u(b) (West, WESTLAW, current through Pub. L. No. 108-144 (Dec. 2, 2003)) and 24 C.F.R. § 135.1 (2003).

³At the same time, the report appeared to justify the HUD inaction, noting

- (2) Section 3 has not been an area of priority for HUD in the past;
- (3) The Section 3 regulations are vague as to the extent of economic opportunities that are to be afforded to low-income individuals; and
- (4) HUD cannot assure that Section 3 is functioning as intended.

The HUD IG found that HUD has not implemented the goals of OMB Circular A-123, which provides for continuous monitoring of the effectiveness of programs, regular evaluations and timely action to correct deficiencies.⁴ In particular, HUD did not have in place a system for tracking recipients of federal funding subject to Section 3. The HUD IG simply stated that HUD was unable to identify such recipients. From this fact flow other major deficiencies, such as the lack of a system for recipients subject to Section 3 to report to HUD, an effective system for monitoring recipients and an evaluation of any reports or the reporting process itself.

Substantively, the HUD IG found that HUD had no way of determining whether the required provisions regarding compliance with Section 3 were included in contractual agreements with recipients and subcontractors. In addition, the report stated that HUD had no way of verifying whether recipients were notifying public housing residents and other eligible persons about training and employment opportunities and recruiting and hiring such persons.

HUD responded to the audit report and the HUD IG commended HUD for its recent efforts, which began in fiscal year 2002, to address some of the identified problems. HUD has begun to monitor funding recipients subject to Section 3 and has developed a strategic plan "to enhance the efficiency and effectiveness of the program."⁵ The goals of the plan are to evaluate existing policies and procedures, update education and outreach materials⁶ and increase collaboration with other major HUD program areas. Unfortunately, it does not appear that a goal of verifying the training, recruitment and hiring of public housing residents is in the strategic plan.⁷ This is a significant omission. We hope that the response to the HUD IG report will not be limited to procedural adjustments, but will also encompass substantive objectives and outcomes. ■

that "recipients that receive HUD funding have the primary responsibility for compliance" and that "HUD does not have direct oversight." NIESEN, *supra* note 1, at 2 and 3. With accelerating efforts to deregulate federal programs, such excuses could be used to justify inaction by HUD with respect to any number of programs.

⁴NIESEN, *supra* note 1, at 3.

⁵NIESEN, *supra* note 1, at 8.

⁶HUD has made available a PowerPoint presentation on the Section 3 program, which is posted on the NHLP Web site, <http://www.nhlp.org>. HUD staff has also participated in Section 3 trainings in Pennsylvania and Virginia. Presumably, other trainings have been held elsewhere.

⁷Similarly, the report includes no discussion of establishing a baseline for Section 3 training, recruitment and hiring and then increasing those numbers from the baseline in accordance with the amount of funds made available each year.