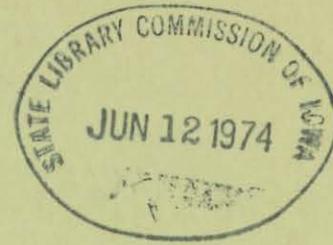


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SPECIAL REPORT

Federal Administrations Waiver Strategy For Planned Variation Cities

Prepared By:

**COMMUNITY DEVELOPMENT SECTION
STATEWIDE PLANNING DIVISION
OFFICE FOR PLANNING & PROGRAMMING**

SPECIAL REPORT
Federal Administration's Waiver Strategy for
Planned Variation Cities

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INTRODUCTION

INTRODUCTION

In conjunction with the presidents' announcement of the Planned Variation Strategy, three special options were made available to the 20 cities selected to participate. This report discusses the third variation, Minimization of Review. Executive Order _____ gave the Chief Executives of the selected cities authority to request waivers of Administrative Regulation and unnecessary application information. This administration initiative was part of a report the president had requested from the undersecretaries' group.

On March 27th, 1969, the president launched a major effort at the federal level to review the operation of all the Federal Domestic Assistance programs. This program, Federal Assistance Review (FAR) layed the groundwork for the Minimization of Review strategy at the local level and had three major goals:

- . Greater reliance on State and local governments in the operation and administration of Federal grant programs,
- . Decentralization of Federal Programs from Headquarters to regional offices and,
- . Increased interagency standardization of requirements for grant programs.

The Departments' of Health Education and Welfare and Housing and Urban Development clearly took the lead in meeting the goals set forth in the Federal Assistance Review Program.

In a special report of the FAR Program, HEW states that, "Although the original Model Cities program has been successful in providing many needed

services to inner City residents, experience has shown that changes in the program are needed to solve the problems that have been encountered. Therefore, new programs have been initiated in 20 cities to test alternative ways of running the Model Cities Program. The report continues, "A major problem for many cities was the heavy administrative burden created by the Federal Regulations and guidelines that hindered efforts to deliver needed services."

To reduce reporting requirements, HEW has established procedures for receiving and responding to special requests from cities for the elimination or reduction of administrative requirements.

The criteria Planned Variation Cities were to use in deciding what requests to make were:

1. Barriers to the development of innovative programs
2. Barriers to the implementation of modified urban strategies considered important to the success of the expanded Model Cities Program.

For example, a move might be undertaken to establish a citizen council which would perform the functions of all the existing ones. This would necessitate a waiver for a special citizen council in several programs such as the Urban Renewal Program, or OEO program.

To insure that all levels of government were involved in this process, thereby speaking to one of the most serious deficiencies uncovered by the Model Cities Program, fragmentation of the grant-in-aid system; the Departments' of Health, Education & Welfare & Housing & Urban Development jointly funded

State/Local Task Forces. Federal Agencies were hopeful that State government would also extend special consideration to the target cities on requests for waivers for State Administrative regulations and procedures.

Specifically, they requested state government to, "Analyze actual or proposed regulations received by the state from agencies in Des Moines regarding the relationship of requested information to the legislation covering the application; requirements administratively imposed to meet the legislative mandate; "In addition, as programs often involved the county, school district and various state departments, recommendations would be made to the Intergovernmental Task Force relative to simplifying procedures for review and funding. This in a nutshell is the spirit and direction of the Waiver initiative.

Thus, the purpose of this report in five-fold:

1. To clarify the concept.
2. To explain and analyze the federal/state response to the Concept
3. To state and discuss the major issues regarding the concept
4. To recommend alternatives for making it a useful/productive
5. To draw some conclusion about the concept reflecting on it's two years of existance.

If there are any questions concerning the report, please contact Mike O'Bannon, Director of Community Development at the State Office for Planning and Programming.

SECTION I

ADMINISTRATIVE WAIVERS: THE CONCEPT

"As with the regular model cities program, the plan variation cities are charged with orchestrating a comprehensive attack on the physical, economic, and social conditions of slum and blighted neighborhoods in the city. Sixteen of the twenty planned variation cities has been provided with additional supplemental funds to expand this effort beyond the existing model neighborhood area into some more target areas. All twenty cities have received extra supplemental dollars to develop a city wide planning and programming capacity and to review applications for federal funds under a wide variety of programs in connection with the chief executive review and comment variation."¹

The waiver concept was developed to assist in meeting the goal stated above. *The concept defined was simply, to remove administrative barriers to the planning, coordination, implementation and integration of new or modified urban strategies designed to improve the quality of life for residents of plan variation cities.* The chief executive of the planned variation city is most important in both the development and implementation of the concept. All waiver requests must be channeled to the various federal departments through the plan variation city's chief executive. Not only would this provide the federal agencies with a single focal point for receiving and transmitting information regarding the waiver requests but would insure that the chief executive is both knowledgeable and supportive of all requests emanating from the city which can enhance the achievement of the overall city strategy.

1DHEW variation minimization of review policies and procedures for handling waiver requests.

According to our information, requests need not be restricted to those projects and programs specifically identified in the city's plan variation submission so long as they are related to and supporters of the general human services strategy outlined in the submission.

Beyond the formal definition of the concept the potential exists, though neither official or publicized, for minor changes or revisions in regulations with the counsel and approval of appropriate federal officials. To Facilitate this more informal possibility D/HEW, for instance, states in their guidelines, "A planned variation city may at any time request technical assistance and consultation from HEW agency personnel. During these informal on-site discussions, questions concerning administrative program requirements may come up. Nothing in the formal procedures described below should be construed as precluding the negotiation and granting of waivers or reductions of administrative requirements. The determination of whether a decision can be made informally or whether a request should be submitted for a formal review and action will be left to the judgement of the agency representatives, based upon their knowledge of the program's regulations and guidelines and any instructions which they may have from their central or regional program office."

SECTION II

FEDERAL RESPONSE TO WAIVER STRATEGY

It was discovered that only programs with waiver provisions written into the law or regulations promulgated by federal agencies not printed in the federal register could possibly be considered. In a special report HEW noted that, in many cases, grant regulations are based on legal requirements that must be changed before any meaningful improvements can be made."

All cities, etc. had the option to apply for waivers on programs in which a waiver provision was included in the enabling legislation. In fact, the waiver option written into the law was also an indicator that various areas of the country would deal with programs differently and therefore would require waivers and flexibility in certain areas of the program implementation.

It was for these reasons that the federal rationale changed. The new rationale was that because the city was involved in executive review and comment strategy they might outline deficiencies or negative incentives inherent in the grant application or grant implementation process. These designated areas then could be changed by the granting of waivers.

HUD's position on waivers was best stated by Floyd Hyde in a memorandum to federal regional directors in April of 1972, "On July 30, 1971 Secretary Romney directed all regional administrators to submit waiver requests to the appropriate assistant secretary that would result in minimizing of non-statutory submission, review and reporting requirements for planned variations cities approved for the citywide model cities program variation. You are hereby authorized to grant any planned variation citywide demonstration city in your region any waiver which I grant to another planned variation

city; provided that any conditions specifically expressed in my waiver can be met. Consistent with the secretary's desire to grant these waivers to all applicable cities, it is expected that you will grant any waiver which is requested by any of these cities. Please refer to my attention any instance when you intend to deny a waiver request for any reason other than failure to meet a condition expressed in my waiver, before you disapprove the request.

While no additional central office approval is required for implementation, it is necessary that we have a record on waiver implementation for evaluation purposes. Therefore I am requesting that copies of all approved waivers be forwarded to me, Attention: Policy Development Division.

To the extent possible I would hope that waiver requests could facilitate: annual funding; a citywide community development strategy; elimination of causes of segmented community development operations (e.g. conflicting or duplicative federal requirements for categorical programs in the areas of planning, administration, citizen participation, etc.); transfer of authority from federal to local government in (e.g. expanded use of "Proclaimers"); advance information to the city concerning federal resources to be available for meeting local needs and priorities (e.g. annual arrangements); blending of national and local goals; internal coordination of the city's own community development programs; external coordination of the city's community development programs with those of other units of government throughout the metropolitan area.

Valuable time may be saved in identifying specific requirements susceptible to waivers by taking advantage of the research that has already been accomplished

through the Federal Assistance Review effort, initiated by the president on March 27, 1969. FAR is a three year effort, under the supervision of OMB, to "decentralize and simplify the machinery of federal aid for the purpose of improving delivery of services to the American people through the state and local government". The studies and report prepared by my staff on the simplification of community development programs will be made available to you shortly. Similiar materials for other HUD programs may be requested from the appropriate assistant secretary. The information and research on program of other departments and agencies should be obtained through your federal regional council."

The Department of Health, Education and Welfare was also very clear in commitment to do what they could to make the waiver initiative a success. The formal procedures promulgated by the central office of HEW are as follows:

"The following procedures will govern the method and timetable for handling formal requests submitted under the HEW minimization of review process:

1. Planned Variations chief executive sends request for waiver or modification of administrative requirement to regional director.
2. Regional director consults with regional agency head concerned and determines appropriate program office to handle the request.
3. Within five (5) working days of receiving the city submission, regional director sends acknowledgement of receipt to the chief executive and notifies him of the HEW program office which will review the request.

4. Simultaneously with step 3, regional director sends a copy of the incoming city submission and letter of acknowledgement to the Office of Field Management (OFM). Regional agency head sends identical package to the central agency head.
5. The Office of Field management notifies Office of Grant Administration Policy and HEW FAR management team of the submission.
6. Within fifteen (15) working days of receiving the city request from the regional director, each agency program office handling a request sends a status report to the regional director indicating approval, disapproval, or expected timetable for final decision on the request. These reports should be routed through the regional or central agency head, as appropriate, and should clearly indicate the reasons for any disapproval.
7. Regional director provides Planned Variations chief executive with overall status report on all requests submitted for consideration with copy to the Office of Field Management.
8. The Office of Field Management provides up-date report to the Office of Grant Administration Policy and the HEW FAR management team.
9. For requests which cannot be processed within the initial fifteen (15) day period, up-date reports will be provided to the regional directors every ten (10) working days until a decision is reached. The subsequent reports the routing procedures described in steps 6-8 apply.

No other federal agencies corresponded with either the Planned Variation city or the Intergovernmental Task Force on formal waiver procedures. Gary Houseknect, Office of Deputy Assistant Secretary for Grants and Procurement Management, stated that to his knowledge beyond those programs which had statutory waiver provisions, or regulations contained in program manuals, policy letters etc. that the Department of Health, Education, and Welfare had not granted any waiver requests.

The federal response to the waiver strategy has been very noncommittal. Most agree that the initiative was a complete failure. The original rationale of the special discretionary option for mayors of planned variation cities was abandoned when it was clear that in reality little could be accomplished.

The list of program regulations waived by the Department of Housing and Urban Development is enclosed in the appendix.

SECTION III

STATE RESPONSE TO WAIVER INITIATIVE

In December of 1973, the Intergovernmental Task Force staff contacted and interviewed the members of the State Department Task Force.

The specific objectives were to:

1. Ascertain the agency's formal policy on waiver requests.
2. Document existing formal procedures for requesting waivers of administrative regulation or unnecessary application information (if any).
3. Establish policy and procedures where none existed.

The task force staff found that the majority of State Agencies:

1. Had never received a request for a waiver.
2. Were not aware of Federal policy in this area.
3. Stated their policies were determined by Federal law and Federal regulations printed in the Federal Register.
4. Did not recognize a real need for formal policies and procedures.

However, the State Office of Economic Opportunity, the State Conservation Commission, the Iowa State Department of Health, the Iowa Crime Commission, and the Iowa State Office for Planning and Programming were aware of the policy and procedures even though they had little or no experience with requests.

The State Department of Social Services was extremely cooperative in developing a policy and procedures on the waiver strategy.

Several agencies indicated that they were either working on policy and procedures in this area or that they would look into the possibilities if a waiver request was submitted for formal action. These included the State Drug Abuse Authority, the State Employment Security Commission, the State Department of Public Safety, the Iowa

State Highway Commission, and the Commission on Aging.

Only two State Departments felt that there was no possibility of waivers of administrative regulations or unnecessary application information being processed. They were the higher Education Facilities Commission and the Department of Public Instruction.

The majority of State Agencies agreed that where regulations had been set within their departments; the waiver could be granted by the Commissioner/Director of the agency. However, at the state level, where the Legislative Rules Committee, or State Legislature had set policy either by administrative regulation or public law, there was no possibility of a waiver being granted through the Commissioner/Director of the agency. Requests of this nature would have to be brought to the attention of either the State Legislature or Legislative Rules Committee. Furthermore, if policy had been set by the Federal agency or Congress, either through statutory enactment or formal statement of regulations in the Federal Register, the State was powerless to act.

SECTION IV

MAJOR ISSUES REGARDING WAIVERS
OF ADMINISTRATIVE REGULATION

There are several major barriers which would have to be overcome before the waiver strategy could be a productive tool for state and local government.

The first and perhaps most important deals with legal right for a federal agency to waive an administrative regulation which has been printed in the Federal Register.

It has been a well established principle that rules and regulations of governmental agencies published in the Federal Register in accordance with 44 and U.S.C.A. 150 ET SEQ. Have the force and effect of law. The regulations are binding on the secretary of the pertinent department, as well as the general public, until they are repealed or modified. See Northern States Power V. Rural Electrification Administration, 248 F. FUPP. 616 (D.MINN. 1965); United States V. MILLSAP, 208 F. FUPP. 511 (D. WYO. 1962). In Owens V. Parham, 350 F. Fupp. 598 (N. D. Ga. 1972), the U.S. District Court held that a state participating in the AFDC program must conform to the mandatory provisions of the Social Security Act and the valid regulations of the Department of Health, Education and Welfare.

Thus, there could not be a waiver of either the Federal statutes or HEW regulation under the DHEWCERC procedures for planned variations cities.

The material submitted refer to "waivers of administratively imposed requirement" in planned variations cities programs, not to waiver of the law and regulation except in those instances where there is statutory authority for such waivers, e.g., V Intergovernmental Cooperation Act, P.L. 90-577, and section 1115 of the Social Security Act.

Before the announcement that Planned Variation cities and states had certain options with regards to pursuing waivers of administrative regulation or unnecessary application information, a procedure was already in place in which waiver request were to go directly to the regional director of the pertinent federal agencies. The same legal implications discussed in the first barrier were true then. Save a presidential announcement of this option to planned variation cities, the specific role and authority of the federal regional council in the waiver process as well as the innovation on what was already available to state and local government has never been made clear in federal policy statements the intergovernmental task force has received.

On instructions from the intergovernmental task force, staff addressed a letter to the federal regional council. This was an attempt to get more information and clarify our questions concerning the authority and responsibilities on each level. The response we received merely restated the procedure we already had and noted that if no action was taken we should notify the Federal Regional Council. Therefore, we have never been able to determine beyond an ambiguous support of the concept the federal commitment to making it work.

Several waivers from Des Moines have been denied:

1. One waiver request made by the State Youth Coordinator, State Office for Planning and Programming to the Law Enforcement Assistance Administration dealing with a cost barrier in the Iowa Runaway Service Program was denied without a reason.
2. The Department of Housing and Urban Development denied a waiver from city government reportedly because the regulation had been

printed in the federal register and therefore could not be waived.

3. The State Department of Social Services requested a waiver of responsibility regarding the staffing contract for the secretariat of the Des Moines Intergrated Services Program. This waiver was denied because such a waiver was prohibited in the federal regulations.

This would clearly demonstrate the point made earlier, however, in all fairness to the federal agencies, they appear to be as confused about the policy and procedures as are the state and local government.

The final major issue, we would raise, relating to the waiver initiative concerns the time factor.

The time sequence for review of the waiver request and accompanying decision must be set and followed by participating federal agencies. Local service providing agencies as well as state and local government are continually fighting the time constraints. As you are aware, with all grants is a review period. If a waiver is desired, the agency applying for funds is faced with the review period and a waiver review period. The old acronym with states: "if the project is a necessity, it should have been implemented yesterday" holds true. When one discusses innovative streamlining operations with local agencies, inevitably the discussion turns to another layer of bureaucracy and the time variable as a major reason why it won't work.

Within the HEW operational procedures, although the Mayor is consistently a part of the process, the time frame is open ended. At the crucial decision points there is always an option to use more time to make the decision on approval/denial of the waiver request. An example of what we are speaking of is as follows: "for requests which cannot be processed within the initial fifteen day period, update reports will be provided to regional directors every ten working days until a decision is reached."

This optional time frame is a major reason why the waiver process is not useful to local vendors and state and local governments.

SECTION V

RECOMMENDATIONS & CONCLUSION

On reading this report relating to the Administration's Waiver initiative, it should be clear that as the strategy is currently operating, it is neither productive nor useful to state and local government. The areas in which waivers were granted were possible before the special emphasis on waivers for Planned Variation Cities and State/Local Task Forces was ever announced. However, the administration at both the State and Federal levels could take steps to make it a potentially productive urban strategy.

First, each Federal/State Agency could print a waiver option for selected cities into their departmental rules. Such an addendum would give the Federal/State Agency the authority to consider and waive those regulations which do not violate the Statutory provisions of the enabling legislation. In the case of Federal Agencies, the waiver provision would have to be printed in the Federal Register. In the case of State Agencies, the waiver provisions would have to be noted in the State Plans and in some cases the Departmental Rules set by various legislative committees. Such a statement might read, The Secretary has the authority to waive those regulations which do not violate the statutory provisions of the enabling legislation, or change the legislative intent for the cities selected to participate in the city wide variation of the Planned Variation experiment. A

similar statement could be written to include State administered or controlled Programs at the state level.

Second, each State/Federal Agency would have to issue formal and concise policy and procedures for waiver consideration. In the case of Federal Agencies, such procedures should also be printed after circulation in the Federal Register. The procedures would include the five major areas discussed below:

1. Who has the authority to approve the Waiver Request.

If the Secretary/Director of the Federal Department delegates the responsibilities concerning waivers to the Regional Director, this should be so stated. In those instances where the central office would want to make the final decision, the procedure for central office approval should be so noted.

In the event the Secretary would not delegate the authority to the Regional Director, the procedure should state the central office coordinator for waiver requests.

2. The roles and responsibilities of all federal officials involved in the waiver process should be explicitly stated.

This action would eliminate the possibility of confusion at the state and local level on how the requests were handled once they enter the system.

3. An inflexible time sequence for review and accompanying decision on the Waiver request should be established. This would provide the valuable information to local governments and service vendors on when a decision could be expected on the waiver request. Such a time frame would be included in the planning and grant application submission process.
4. A provision whereby the review period for the grant-in-aid proposal and the waiver request would be coordinated and processed at the same time should be established. This would serve several purposes. The grant application could not be disapproved on the basis that a waiver of X regulation would be necessary before the program could be implemented. The program could be written with the notion that a waiver would be necessary. The application could not be approved before the waiver.
5. A procedure for notifying the other cities of the federal action on a waiver request would be established. Without these very definitive changes in the waiver policy, we can not see how the waiver strategy could be useful to the nation's chief executives. Furthermore, we do not feel the option would ever be used. It is our hope that this report serves as an impetus for change.

In conclusion, unless steps along the lines detailed in the report are taken to make the waiver process a potentially viable tool for state and local government, it should no longer be supported.

Appendix I

Water and Sewer Program

1. Regional Office Request:

Waive the use of Handbooks MPD 6620.1, March 1970, and MD 1360.1, March 1968, and substitute draft handbooks 6220.1 and 6220.1A, both dated July 1970.

Central Office Response:

Waiver request approved except where circumstances governs use of MD 1360.1 and MD 1360.2 (for example, see 6220.1A, July 1970, paragraph 80). See Central Office response #2 regarding revised relocation procedures and policies that must be followed.

2. Regional Office Request:

Revise all relocation references to conform with the Uniform Relocation Act.

Central Office Response:

It is not necessary to revise draft issuances concerning relocation references. The Relocation Handbook 1371.1, dated July 30, 1971, contains policies concerning the 1970 Uniform Relocation Policy Act.

3. Regional Office Request:

Revise disbursement policy to permit disbursement at:

- "(a) Twenty-five percent grant upon approval of executed contract documents by HUD.
- "(b) Remainder to 90 percent of grant (65 percent) when project construction is 50 percent completed and so concurred in by HUD Field Engineer.
- "(c) Ten percent after clearance of audit".

Central Office Response:

The requested method of disbursement cannot be adopted because it is in violation of Treasury regulations which restrict the accumulation of unused Federal funds in local repositories. However, the current method of fund disbursement in the Water and Sewer Program is under study by the Financial Review and Analysis Team, under the direction of Robert J. Rusin, Director, Local Finance and Administrative Practices Division, Community Development. Meanwhile, instructions in handbook 6220.1A dated July 1970 should eliminate some problems in approving requisitions.

4. Regional Office Request:

Delete legal review of each application and substitute Opinion of Counsel.

Central Office Response:

Waiver is denied. The Central Office is currently studying the question of legal reviews.

5. Regional Office Request:

Leave monitoring of project budget to city with the exception that permission from HUD must be received prior to line item adjustment that changes the grant amount, relocation amount or total project cost.

Central Office Response:

Waiver approved, except that the nature of the project may not be changed substantially by the modifications in the project budget.

Urban Renewal, NDP, and Code Enforcement Waiver Requests

1. Regional Office Request:

Waiver request to allow chief executive of the city to approve budget revisions and submit budgets for our information as consistent with NDP procedures (effects RHM 7218.1, Chapter 2, Section 3; RHA 7250.1, Chapter 8, Section 1; HUD 6220; HUD 6171; 7385.1, Chapter 1).

Central Office Response:

Waiver approved for incrementally funded conventional renewal projects and code enforcement projects provided the nature of the project is not substantially changed by modifications in the budget. Relocation and Rehabilitation grant line items cannot be revised without amendment of Loan and Grant Contract.

2. Regional Office Request:

Waive making or submitting of Annual Administrative Staff Expense Budgets (RHA 7218.1, Chapter 3).

Central Office Response:

The waiver request is denied. The concept of annual budgeting and accounting for long-term projects should not be discouraged since Departmental emphasis is now being directed toward annual funding of programs through: Annual Arrangement (i.e. annual funding agreements with cities), Neighborhood Development Programs, incremental funding of conventional Urban Renewal projects, annual funding of Code Enforcement projects, and legislative proposals for Urban Community Development Revenue Sharing.

3. Regional Office Request:

Waiver is requested on submission of documentation (site Preparation and Project Improvement Contract Documents and Change Orders for Urban Renewal). (RHA 7209.1, Chapter 4, Section 2); NDP (RHA 7384, Chapter 3, Section 3), and Code Enforcement (RHA 7250.1, Chapter 5, Section 2) projects prior to advertisement or award and that the contract documents be submitted after their execution for post-audit review.

Central Office Response:

Waiver is denied. Statutory requirement contained in the Byrd Amendment (Section 815 of the Housing Act of 1954) required that these documents be submitted prior to the authorization for award of the contract. The extent of the review, however, is within your discretion.

4. Regional Office Request:

A waiver is requested to allow credit for sanitary sewer improvements on the same basis as storm drain improvements, rather than on the more restrictive basis that is currently applied. (LHM 7216.1, Chapter 2, Section 2, Page 6).

Central Office Response:

Waiver denied. Effect of the requested waiver would be more toward relieving Seattle of matching requirements in a way that would be inequitable among cities, rather than to shift decision making from Federal to local levels.

5. Regional Office Request:

Waive policy that stipulates that projects boundary streets are not eligible for 100 percent credit where project Loan and Grant Contract was approved before October 1, 1969 (RHM 7209.1, Chapter 1, Page 6).

Central Office Response:

Waiver denied -- same reason given for preceding urban renewal response No. 4.

6. Regional Office Request:

Waive the requirement for an LPA to include in its NDP Plan the material now called for under Plan Element C3 (Planning Criteria), as described on page 2, Chapter 1, Section 1, Appendix 1 of RHA 7384.1.

Central Office Response:

The waiver is denied. The material required in the NDP plan element sought to be waived is considered an integral part of the plan.

7. Regional Office Request:

A waiver was requested that cost of underground utilities in Code Enforcement areas be eligible for the same percentage of credit for above ground utilities. (Code Enforcement Handbook RHA 7250.1, Chapter 8, Section 2, Page 2) for new approvals and projects presently in execution.

Central Office Response:

Waiver denied -- same reason given for urban renewal response No. 4.

8. Regional Office Request:

Section 312, 115 Loan Grants

- a. Waive FHA appraisal and substitute city LPA (City) appraisal (RHM 7375.1, Chapter 15, Paragraph 2(b)).
- b. Waive Opinion of Counsel on Contracts of Sale and substitute LPA statement (RHM 7375.1, Chapter 3, Paragraph 4(b)).
- c. Waive FHA review and final inspection of five units or more and over \$3,500 and substitute LPA (City) final inspection (RHM 7399.1, Chapter 6, Section 1, Paragraph 2(b)).

Central Office Response:

- a. Waiver approved providing new procedures are applied only to structure containing one to four dwelling units and that the appraisal is comparable to an FHA appraisal (whether made by LPA staff or not), is obtained by the LPA and retained in its files, and used in the same way under program policy as an FHA appraisal would be used.
- b. Waiver request denied due to legal nature of subject matter.
- c. Waiver approved providing the appraisal is comparable to an FHA appraisal (whether made by LPA staff or not) is obtained by the LPA and retained in its files; and used in the same way under program policy as an FHA appraisal would be used.

Planned Variations Waivers
Seattle Urban Renewal Program

- I. LPA Contracts for Professional and Technical Services
(RHM 7212.1, Chapter 2)
 - A. Regional Request - With the exception of the submission of contracts for legal services, it is recommended that the submission of all other contracts for professional and technical services in this section of the handbook be waived.
 - B. Central Office Action - Waiver approved, provided HUD standard form of contract is used.
- II. Real Estate Acquisition (non-proclaimer procedures)
 - A. Additional Appraisals -
 1. Regional Request - Waive requirement in RHM 7203.1, Chapter 2, Section 1, paragraph 6 (b) for prior HUD approval of additional appraisals.
 2. Central Office Action - Waiver denied. Prior HUD approval of third appraisal (or additional appraisals, as provided by III F. herein, is not required when the LPA uses Proclaimer Certificate Relative to Establishment of Fair Market Value for Property to be acquired (Circular dated 12/4/70, RHM 7208.1).
 - B. Surveys
 1. Regional Request - Waive requirement for prior HUD approval of surveys of boundaries of individual parcels (RHM 7208.1, Chapter 2, Section 3, page 1, Surveys).
 2. Central Office Action - Waiver approved.
 - C. Final Preparation for Land Acquisition
 1. Regional Office Request - Waive requirement in RHM 7208.1, Chapter 4, Section 1, Page 1 that Progress Schedule for completing items (2) through (8) as listed thereunder be submitted to HUD.

2. Central Office Action - Waiver approved. Waiver should not be construed as modifying other requirements relating to items (2) through (8). Progress Schedule should be prepared and retained in LPA files.

D. Request for HUD Concurrence in Requisition Prices

1. Regional Office Request - Waiver all requirements in RHM 7208.1, Chapter 4, Section 1, Page 2 under the heading Request for HUD Concurrence in Acquisition Prices.
2. Central Office Action - Waiver denied because HUD concurrence in acquisition prices are not normally required when the LPA uses the proclaimer Certificate Relative to Establishment of Fair Market Value for Property to be Acquired (Circular, dated 12/4/70, RHM 7208.1).

E. Submission of Request to HUD (for concurrence in acquisition prices)

1. Regional Office Request - Waive requirements contained in RHM 7208.1, Chapter 4, Section 1, Pages 3-5 under heading "Submission of Request of HUD".
2. Central Office Action - Waiver denied because the requirements are not applicable when proclaimer is used.

F. Assurance of Title to Acquire Property

1. Regional Office Request - Waive that portion of RHM 7208.1, Chapter 4, Section 2, Page 10, item (1) under the heading "Assurance of Title to Acquire Property" which limits exceptions to the requirements pertaining to title being vested in the LPA to those concurred in by HUD.
2. Central Office Action - Waiver denied because requirement is not applicable when proclaimer is used.

III. Proclaimer Certificate Relative to Establishment of Fair Market Value for Property to be Acquired (circular date 12/4/70, RHM 7208.1)

- A. Utilization of the standards of the Uniform Relocation Assistance and Land Acquisition Act of 1970 as the only requirements by HUD and land Acquisition Activities.

1. Regional Office Request - On page 1 of the above referenced Circular, add the following to the items indicated:
 - a. Item 3.a.(1) - Add the parenthetical notation "(Public Law 91-648)" at the end of the statement currently in effect for this item.
 - b. Item 3.a.(2) - Add the following phrase to the end of the statement currently in effect for this item: "contained in Title III of the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 and in the Regulations published in the Federal Register on May 13, 1971. (36 FR 8785-98)".
 2. Central Office Action - The requested additions are denied. The current HUD regulations published in the referenced Federal Register contain only general standards required by the Act, and do not constitute complete acquisition procedures. These procedures are currently being developed and will be issued soon. Requests for waivers of specific elements of these procedures when issued, can be considered at a later date.
- B. Applicability of Acquisition Proclaimers to Parcels for which HUD Concurrence in Price has Previously been Approved or Sought
1. Regional Office Request - Delete restriction on use of proclaimer contained in RHM 7208.1, Circular dated 12/4/70, Page 2, item 3(4)(a).
 2. Central Office Action - Waiver approved, with exception of parcels for which HUD price concurrence has been given during past 12 months. This waiver makes proclaimers applicable to all other parcels for which previously established HUD concurred-in prices has been given or previous requests for HUD concurred-in prices has been submitted.
- C. Applicability of Acquisition Proclaimers to Parcels Regardless of Price or Degree of Variance between Appraisals
1. Regional Office Request - Delete restrictions on use of proclaimer contained in RHM 7203.1 Circular dated 12/4/70, Page 2, item 3(4)(d).
 2. Central Office Action - Restriction limiting use of proclaimers to parcels for which the lowest acceptable appraisal is lost than \$100,000 (including fixtures which are real property) is waived. Retained in effect in the requirement that the highest acceptable appraisal not exceed the lowest acceptable appraisal by more than 15 percent or more than 25 percent for each parcel for which the lowest acceptable is less than \$7,500. Retention of the 15 percent or 25 percent variance for

appraisals in considered legally necessary to comply with statutory responsibility.

- D. Elimination of Condition that latest Approved Budget Provide and Amount to Cover Total Cost of Real Estate Purchases
1. Regional Office Request - Waive prohibition on use of proclaimer when the amount contained in the real estate purchases line item of the latest approved budget (including the amount available in contingencies) is not sufficient to cover the sum of the costs of real estate to purchases, as represented by the sum of the categories listed in RHM 7208.1 Circular dated 12/4/70, Page 2, item 3(4)c, and under Appendix item 5, pages 1 and 2.
 2. Central Office Action - Waiver denied. However, the term "remaining properties to be acquired" (as it appears in the above cited regulations) may supply, in the case of projects with an incremental grant increase approved in accordance with RHM 7202.3, only to those properties to be acquired through the 12 month increment period rather than to the total number of properties to be acquired for project completion.
- E. Elimination of Special Minimum Price for Single-Family and Duplex Owner-Occupies Properties
1. Regional Office Request - Waive requirement that: "For single-family or duplex owner-occupants, the minimum price paid by the LPA shall be the average of the prices set forth in the independent appraisals rounded to the next lowest dollar". (RHM 7208.1, Circular dated 12/4/70, Page 3, item 3 c).
 2. Central Office Action - Waiver approved. Statutorily based property appraisal requirements, condemnation procedures and provisions of the Relocation Assistance and Real Property Acquisition Policies act of 1970 provide adequate assurance that owner-occupants of small residential properties receive fair value and just compensation when acquisition of their property becomes necessary.
- F. Third Appraisal Without HUD Concurrence
1. Regional Office Request - Delete all of item 4, page 4 of RHM 7208.1, Circular dated 12/4/70 thereby removing all conditions and limitations on additional appraisals being obtained by the LPA.
 2. Central Office Action - Waiver is partially approved to allow the LPA to obtain additional appraisals without HUD concurrence, if Form HUD-639 (Form of Agreement for Final Appraisals is used without Modification and sufficient funds are available in the budget for such appraisals. RHM 7208.1 Circular dated 12/4/70, Page 4,

item 4 is revised by:

- a. Substituting the word "additional" for the word "third", wherever it appears.
- b. Deleting the word "three" wherever it appears.
- c. Changing the fifth word of the second paragraph from "appraisal" (singular) to "appraisals" (plural).

"If no two appraisals of the same parcel are within 15 percent of each other when the lowest acceptable appraisal is \$7,500 or more or within 25 percent of each other when the lowest acceptable appraisal is under \$7,500, the LPA should request

IV. Land Marketing (Non-proclaimers procedures)

A. Schedule for Completing Preparations for Land Marketing

1. Regional Office Request - Waive requirement in RHM 7214.1, Chapter 2, Section 3, Page 2 (first four paragraphs) that a Progress schedule for completing preparations for land marketing be submitted to HUD.
2. Central Office Action - Waiver approved. Progress schedule shall be prepared and retained in LPA files.

B. Disposal Preparation - Declaration of Restrictions

1. Regional Office Request - Waive requirement that a Declaration of Restrictions specifying centrals of the Urban Renewal Plan be submitted to HUD for approval prior to being recorded in the land records of the locality (RHM 7214.1, Chapter 2, Section 3, Page 2, item (2)).
2. Central Office Action - Waiver denied, in absence of standard approved HUD guide form. If a guide form can be developed by the HUD Regional Office, meeting the requirements of state statutes, it may be submitted to the Central Office for consideration for adoption as a means of eliminating individual submission and review.

C. Land Survey or Plat

1. Regional Office Request - Waive requirement in RHM 7214.1, Chapter 2, Section 3, Page 2, item (3) that a land survey or plat of the project be submitted for HUD concurrence.

2. Central Office Action - Waiver approved to eliminate the submission of documents required in the above cited regulations. Also waived in the alternatives of submitting legal descriptions of parcels in place of the land survey or plat, appearing under the heading "Land Survey or Plat" in RHM 7214.1, Chapter 2, Section 3, Page 11, item (3). (HUD approval is not deemed necessary in the light of professional competence and certification required in the preparation of these documents. Copies of these documents shall be maintained in the LPA files until until legally recorded with the land records of the locality.

D. Reuse Appraisal

1. Regional Office Request - Waive requirement for submission of reuse appraisals, special market analysis and soil investigations (RHM 7214.1, Chapter 2, Section 3, page 2, item (4)).
2. Central Office Action - Waiver denied on submission of appraisals since they are not required if proclaimer is used. Other required submissions are waived unconditionally, but documents should be maintained in LPA files.

E. Land Marketing Studies

1. Regional Office Request - Waive requirement that any land marketing studies made for the LPA be submitted to HUD. (RHM 7214.1, Chapter 2, Section 3, Page 2, item (6)).
2. Central Office Action - Waiver approved.

F. Sales Promotion Progress

1. Regional Office Request - Waive requirement that all plans and materials for sales promotion progress be submitted to HUD. (RHM 7214.1, Chapter 2, Section 3, Page 2, item (7)).
2. Central Office Action - Waiver approved.

V. Proclaimer Certificate Relative to Establishment of Fair Reuse Value (RHM 7214.1, Circular dated 12/4/70)

A. Applicability of Proclaimer to Parcels for Which HUD Concurrence in Value has Previously been Sought

1. Regional Office Request - Waive exception to use of proclaimer contained in the above reference Circular, page 2, item (1).
2. Central Office Action - Waiver approved, accept for parcels for which a HUD price concurrence was given within the past 12 months.

B. Applicability of Proclaimer Regardless of Degree of Variance between Appraisals

1. Regional Office Request - Waive exception to use of proclaimer contained in the above referenced circular, page 2, item (4).
2. Central Office Action - Waiver denied. Maximum variance of 15 percent between acceptable appraisals on parcels for which the lowest acceptable appraisal is \$7,500 or more and 25 percent on parcels for which the lowest acceptable appraisal is less than \$7,500 is considered legally necessary to comply with statutory responsibility.

C. Applicability of Proclaimer to Parcels without Regard to Price

1. Regional Office Request - Waive exception to use of proclainers contained in the above referenced Circular, Page 5, item (5).
2. Central Office Action - Waiver approved.

D. Applicability of Proclaimer Without Regard to Amount Included for Disposition Proceeds in Latest Approved Financing Plan

1. Regional Office Request - Waive prohibition on use of proclaimer when the amount contained in the latest approved project financing plan for land disposition proceeds is more than the sum of the prices for properties conveyed plus estimated or appraised prices of properties remaining to be conveyed. (Above referenced Circular, page 2, item (6) and appendix, page 2, item 5)
2. Central Office Action - Waiver denied.

E. Third Appraisal Without HUD Concurrence

1. Regional Office Request - Delete all of item 4, page 3 of the above referenced Circular, thereby removing all conditions and limitations on additional appraisals being obtained by the LPA.
2. Central Office Action - Waiver is partially approved to allow the LPA to obtain additional appraisals without HUD Concurrence, if Form HUD-324 (form of Contract for Reuse Appraisal of Redevelopment Sites) is used without modification and sufficient funds are available in the budget for such appraisals. (RHM Circular 7214.1, page 3, item 4 is revised by:
 - a. Substituting the word "additional" for the word "third", wherever it appears.

- b. Deleting the word "three" wherever it appears.
- c. Changing the fifth word of the record paragraph from "appraisal" (singular) to "appraisals" (plural).

Planned Variations Waivers (Set #3)
Seattle Urban Renewal Program

I. Annual Administrative Staff Expense Budget (RHM 7218.1, Chapter 3)

- A. Regional Request - Permit the City to submit its own budget format in place of the required Annual Administrative Staff Expense Budget.
- B. Central Office Action - Request approved, since the Region is satisfied that the City's format will provide the detail of information needed for HUD analysis and evaluation to determine approvability of those proposed costs related to HUD-assisted urban renewal activities.

II. Simplification of Section 312 Loan Approval Authority (CD 7375.1 and CD 7399.1, Chapter 6)

- A. Disbursements and Reimbursement for Rehabilitation Loans Made.
 - 1. Regional Request - Modify contract and procedures to permit disbursement of individual loans from project funds, with periodic reimbursement for loans made by single U.S. Treasury check.
 - 2. Central Office Action - Request denied. The proposal, although appearing grossly simple as stated, in reality involves a number of intricate legal and fiscal issues. Assuming that these could be favorably resolved, implementation of the proposal would call for extensive revision of present procedures, the complexities in which could easily make the effort counter productive.

B. Subassignment of Regional Assignment to the City.

1. Regional Request - Permit subassignment of funds to the City quarterly, authorizing them to prevalidate loans up to the amount so assigned.
2. Central Office Action - Request denied, for the reasons noted in connection with A. above. However, the Region may, if not already doing so, make an informal earmarking of funds to the City. While prevalidation of individual loans would continue to be made at the Regional level, this will at least give the City an idea of the amount of loans which they may be able to have funded in the fiscal year.

C. Summary Reporting of L.P.A. Approvals.

1. Regional Request - Permit the City to make a monthly recapitulation of pertinent data for monthly report purposes.
2. This reporting procedure will not be required, as the proposed procedure to which it relates is not to be implemented.

PLANNED VARIATIONS WAIVERS (Set No. 3)
Seattle Urban Renewal Program

III. Request for Consent to Transfer Funds (RHM 7215.1 Chapter 4, Section 4)

- A. Regional Request - Permit use of a "Guide Form of Letter", in lieu of Forms HUD-6251 and HUD-6252, as the submission with Form HUD-6205, Request for Consent to Transfer Funds, this is intended to place responsibility on the City to assure that the transfer or urban renewal monies from the Project Temporary Loan Repayment Funds to the Project Expenditures Account is necessary and that funds are available for transfer.
- B. Central Office Action - The City may discontinue submission of Forms HUD-6251 and HUD-6252 in support of Form HUD-6205. Entry of the explanation called for in Block A of Form HUD-6205 may be considered sufficient documentation in support of the proposed action as required by the applicable provisions of Section 304(a) of the Contract for Loan and Grant. There is nothing in the substance of the proposed guide letter format which appears to be essential. Therefore, it should not be required to be submitted in lieu of the other forms.

There is no objection to transferring to the City responsibility for assuring that the transfer of funds is necessary, and reasonable. However, the availability of a sufficient fund balance remaining under contract borrowing authority must continue to be determined from the Department's records. The HUD-6205 must be processed through for the

entry reducing the balance of HUD's commitment to make the Project Temporary Loan, and an executed HUD-6205 returned to the City, before they effect the transfer of funds to the Project Expenditures Account.

Robert H. Baida, Regional Administrator
Region IX - San Francisco

Floyd H. Hyde
Community Development

Request for Waiver from a Planned Variation City (Tucson),
Your Memorandum 9DF dated February 10, 1972.

The City of Tucson seeks a waiver of MCGR 3100.8; Chapter 10, Paragraph 34, (CDA Letter No. 8, Part 2), of the Model Cities Program requirements. The City wishes, in lieu of the prescribed accrual accounting basis, to permit their Model Cities' Operating Agencies to employ a modified cash accounting system, wherein accruals would only be made in the last month of the action year.

The request waiver is hereby granted.

Assistant Secretary

Appendix II

DHEW . LANNED VARIATIONS MINIMIZATION OF REVIEW
POLICY AND PROCEDURES FOR HANDLING WAIVER REQUESTS

Background and Overall Policy

In response to the President's Federal Assistance Review (FAR) program, the Department of Health, Education, and Welfare has taken steps to simplify and streamline the application, review, and administration requirements for its many categorical grant-in-aid programs. Through the work of the HEW Federal Assistance Streamlining (FAST) Task Force, the Department has eliminated or reduced literally thousands of application and review steps in both formula grant and project grant programs, saving countless man-hours of valuable time which had previously been spent in burdensome and largely unnecessary administrative paperwork.

In addition, through the work of the Office of Grant Administration Policy internally and its participation in government-wide efforts under the leadership of the Office of Management and Budget, the Department has moved to simplify and standardize both administrative and fiscal requirements in the actual administration of programs. The foregoing efforts will provide substantial across-the-board benefits for all HEW applicants and grantees and will have particular relevance to participants in the Integrated Grant Administration program.

The task of simplification and standardization, however, is far from complete. There are additional FAST Task Force recommendations which remain to be implemented, and a continuing validation and evaluation effort is necessary. In turn, there are doubtless additional administrative requirements which appear burdensome and unnecessary to local applicants and grantees and which have not been considered yet by the Department.

In recognition of this fact, and in support of the Minimization of Review aspect of the Planned Variations demonstration, Secretary Richardson in a February 28 memorandum expressed a particular interest in having the twenty Planned Variations cities raise for Departmental consideration "any additional reductions or waivers of administratively imposed program requirements which hinder local attempts to coordinate and integrate the delivery of services."

The following policies and procedures, developed jointly by the Office of Policy Development and the Office of Grant Administration Policy, will guide the special minimization effort as it applies to Planned Variations cities and help to insure the prompt handling and proper tracking of individual requests submitted in connection with this effort.

Scope of the Procedures

As with the regular Model Cities program, the Planned Variations cities are charged with orchestrating a comprehensive attack on the physical, economic, and social conditions of slum and blighted neighborhoods in the city. Sixteen of the twenty Planned Variations cities have been provided with additional supplemental funds to expand this effort beyond the existing Model Neighborhood Area into other similar target areas. All twenty cities have received extra supplemental dollars to develop a city-wide planning and programming capacity and to review applications for Federal funds under a wide variety of programs in connection with the Chief Executive Review and Comment (CERC) variation.

The HEW Minimization of Review effort is designed to facilitate the planning and implementation of this comprehensive attack by identifying and removing administrative barriers to the coordination and integration of services. Such barriers may exist within the guidelines or regulations of an individual program or may arise in connection with local efforts to relate that program to other programs of HEW or other Federal departments. In addition, the identification of these barriers may take place during the city's preparation of its Phase II strategy and implementation submission to HUD, during the Phase III implementation period itself, or during the normal course of CERC review. In any case, the HEW Minimization of Review will be in effect throughout the life of the Planned Variations demonstration, and individual waiver or revision requests may be presented at any time. In turn, requests may be directed at any HEW program, not solely those which are included under the CERC procedures.

In line with the Planned Variations goal of strengthening the leadership and coordination role of the chief executive and the HEW Minimization of Review goal of facilitating the accomplishment of the city's human services strategies and plans, all waiver or revision requests must be channelled to the Department through the Planned Variations chief executive. This will provide HEW with a single focal point for receiving and transmitting information regarding such requests and will insure that the chief executive is knowledgeable and supportive of all requests emanating from the city which can enhance the achievement of the overall city strategy. Requests need not be restricted to those projects and programs specifically identified in the city's Phase II submission so long as they are related to and supportive of the general human services strategy outlined in the submission.

Informal Procedures and Negotiations

A Planned Variations city may at any time request technical assistance and consultation from HEW agency personnel. During these informal on-site discussions, questions concerning administrative program

requirements may well come up. Nothing in the formal procedures described below should be construed as precluding the negotiation and granting of waivers or reductions of administrative requirements. The determination of whether a decision can be made informally or whether a request should be submitted for formal review and action will be left to the judgment of the agency representatives, based upon their knowledge of the program's regulations and guidelines and any instructions which they may have from their central or regional program office.

Formal Procedures

The following procedures will govern the method and timetable for handling formal requests submitted under the Minimization of Review process:

1. Planned Variations chief executive sends request(s) for waiver or modification of administrative requirements to Regional Director.
2. Regional Director consults with Regional Agency Head(s) concerned and determines appropriate program office to handle the request(s).
3. Within 5 working days of receiving the city submission, Regional Director sends acknowledgment of receipt to the chief executive and notifies him of the HEW program office(s) which will review the request(s).
4. Simultaneously with Step 3, Regional Director sends a copy of the incoming city submission and letter of acknowledgment to Assistant Secretary for Community and Field Services, Office of Regional Operations (ORO). Regional Agency Head(s) sends identical package to central Agency Head(s) and, where applications requesting joint funding (including Integrated Grants Administration applications) are involved, to the Division of Consolidated Funding.
5. ORO notifies Office of Grant Administration Policy (OGAP) of the submission.
6. Within 15 working days of receiving the city request(s) from the Regional Director, each agency program office handling a request sends a status report to the Regional Director indicating approval, disapproval, or expected timetable for final decision on the request(s). These reports should be routed through the Regional Director or central Agency head as appropriate and should clearly indicate the reasons for any disapproval.
7. Regional Director provides Planned Variations chief executive with overall status report on all requests submitted for consideration, with copy to ORO.
8. ORO provides up-date report to OGAP.
9. For requests which cannot be processed within the initial 15 day period, up-date reports will be provided to the Regional Directors every 10 working days until a decision is reached. For these subsequent reports, the same routing procedures described in Steps 6-8 will apply.

Every two months, ORO will prepare a master list of all approvals, disapprovals, and pending actions pertaining to Planned Variations minimization requests which have been made during the previous two months. This list will be submitted to the OCAP Executive Committee on Grant Administration Policy for review and any necessary follow-up action. The Committee will then determine which approval requests responded to a unique city situation, which should be extended to all Planned Variations cities on an experimental basis, and which should be incorporated into permanent changes of guidelines, regulations, and/or grant administration procedures. Upon the consideration of such matters, the affected agency program office will be represented.

ORO and OCAP will be responsible for developing any routing or tracking forms which may be deemed necessary to insure consistency in reporting formats.

