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IN THIS ISSUE

Current Projects:

HUD CDBG Performance Regulations

Current Publications:

Mobile home park closures

Federal electric restructuring

Low-income "data mining" for utilities

CURRENT PROJECTS

HUD performance measurement for Consolidated Plans and CDBG programs:

The U.S. Department of Housing and Urban Development (HUD) should adopt an outcome-based performance review of local government's compliance with their obligation to "affirmatively further fair housing" under federal law. In comments filed in HUD's "performance criteria" rulemaking for Consolidated Plans and Community Development Block Grant (CDBG) reviews, FSC said that "despite the outcome-based language in the text of the HUD explanation, the regulation, itself, is still couched in terms of activities and outputs. That focus should be modified [to examine outcomes]."

According to FSC's comments, "despite the clear emphasis of federal policy on measuring results today, as well as the express language in HUD's discussion accompanying its proposed regulation, the regulation, itself, remains focused on *activities*, not on *results*."

The outcome-based measure proposed by FSC would largely eliminate HUD oversight of which activities a local government undertakes. FSC told HUD that:

"A crucial element of performance management is, indeed, establishing and reporting the desired goals and outcomes so that gaps in performance can be identified and rectified. As indicated in the proposed alternative regulation, at the local level, there should be monitoring, reporting, evaluation and feedback within a local planning process, with local program modifications flowing therefrom as appropriate.

"Under the outcome-based performance review process as proposed for HUD, however, there is no need for a submission and review of such planning products to HUD for review or approval. The objective performance review by HUD would focus on the *outcomes* of that planning process rather than on the planning process itself."

FSC summarized saying:

"The regulatory changes proposed in these comments move the HUD regulation toward a true performance review. . . That process must identify the need (through an analysis of impediments); establish attainable and measurable objectives for meeting that need; implement strategies and tactics to attain those objectives; evaluate the outcomes of those strategies and tactics relative to the objectives; and adjust the strategies and tactics, as necessary, based on the evaluation.

"As important as the planning process --perhaps more so-- is the express move to an outcome-based performance evaluation. Rather than reviewing what local governments are *doing*, this system reviews what local governments are *accomplishing* in response to their "affirmatively furthering" obligations."

A copy of FSC's comments to HUD regarding the proposed performance measurement can be obtained by sending an e-mail request to publications@FSCOnline.com.

RECENT PUBLICATIONS

The problem of mass evictions arising from a mobile home park closures: The "forced eviction" of large numbers of residents resulting from the closure of mobile home parks and their conversion to non-residential uses "will inevitably have significant consequences for residents and the greater community," according to a recent article by Mike Sheehan and Roger Colton. "In situations where low-income elderly and other persons are involved, the private burden and the public costs will be tremendous."

The article by Sheehan and Colton, titled "The Problem of Mass Evictions in Mobile Home Parks Subject to Conversion," presents a case study in how to assess the impact of both a mobile home park conversion and the mass evictions that necessarily accompany such a conversion.

The article discusses the "practical immobility" of residential mobile homes, due to both physical and economic reasons. Most of "today's mobile home[s are] designed to be placed permanently on a pad and then maintained there for [their] useful life," the article states. Moreover, the article continues, "while some older mobile homes may be movable, many, if not most, modern mobile home parks have strict age and/or condition restrictions on the mobile homes they will consider for admission. Thus, it is certain that a significant number of technically movable mobile homes will, in the event of conversion, never provide housing again because no other park site will be available."

The article further notes that "the immobility of mobile homes and the typical mobile home resident is exacerbated by the very low vacancy rates traditionally found in mobile home parks. Obviously, finding a vacant pad to move to is a necessary part of any plan to move a mobile

home."

If forced out of their mobile homes, most residents would be forced into much higher cost housing. In the case study presented, more than 30% of the homes being lost represented housing with an average value of \$6 per square foot or less. The average value of newer mobile homes, setting aside other types of housing, was over \$12 per square foot. The article concludes that "a substantial number of people are being adequately housed in their own homes at values per unit which could not be duplicated in either the private, or the public, low-income housing markets."

The article presents an empirical application of these principles to two specific mobile home parks slated for closure in Oregon. The FSC analysis is scheduled to be published in the Spring 1999 issue of the American Bar Association's *Journal of Affordable Housing and Community Development*.

Utility "data mining" and targeting assistance to low-income consumers: While most utilities view their data processing as a mere accounting system, in reality it is a valuable data base as well. According to a recent FSC paper "the wealth of information maintained in existing utility systems can be tapped through simple analyses to make educated determinations of: (1) who low-income consumers might be; and (2) what types of payment problems those consumers are experiencing. Using such analysis to target energy efficiency assistance to particular customers facing particular payment patterns would thus not only result in saved energy, but would help improve bill affordability as well."

The FSC paper, titled *The Use of Utility Data Processing Records as a Data Mining Source On Low-Income Consumers: Converting Information to Knowledge* was written for the *Affordable Comfort 1999 Selected Readings*. Affordable Comfort is the nation's premier conference on energy efficiency in residential buildings.

The FSC paper does not discuss the non-energy benefits of targeted low-income energy efficiency programs. Instead, the paper "introduces certain aspects of the customer data base for a public utility (electric or natural gas) and explains how that data base can be used to increase understanding of low-income payment patterns."

"The purpose of the discussion is not to assert that particular payment patterns have particular meanings or can be attributable to particular causes. Instead, the purpose is simply to open up the possibility in the reader's mind that what has previously been considered a mere accounting tool might, in fact, provide useful insights into the nature and causes of nonpayment.

While utilities can always generally target energy efficiency assistance to low-income consumers, the following are examples of more sophisticated targeting generated by data mining efforts:

- ◆ Winter treatment history: Defining "winter" as October through April, a utility could target any household that received two or more disconnect notices in the past winter season.
- ◆ Shutoff in treatment history: The utilities could target any household experiencing an actual disconnection of service within the past 12 months.
- ◆ Annual 90-day arrears: The utilities could target any household that maintained a 90-days arrears in six or more months (or whatever other threshold is deemed appropriate).
- ◆ Pre-winter arrears: A different way to use arrears involves utilities which track the dollars of arrears, by vintage, for the most recent month. This utility might look at its customers in October each year. Energy efficiency might then be targeted to customers based on either of two types of criteria: (1) to any customer with a 90-days arrears on the October bill; or (2) to any customer with a dollar floor on the arrears

(e.g., to households with a 90-day arrears of \$100 or more).

FSC's paper concludes that the paper's evaluation suggests that ways exist in which utilities can use their own data bases to assist in addressing such problems by identifying different types and patterns of payment problems through a utility's own data base.

"Public utilities can take an active role in targeted energy efficiency efforts. Not only has the need arisen for involvement in efforts to address low-income payment problems, but the utility program manager who is experiencing increasing pressure to cost-justify his or her program may want to engage in data mining to help expand the positive impacts to the company arising from the program."

A copy of FSC's data mining paper can be obtained by sending e-mail to publications@FSCOnline.com. A copy of the *Affordable Comfort 1999 Selected Readings* can be obtained by writing Affordable Comfort, 1030 Washington Trust Building, Washington, PA 15301.

Federal-state relations in a competitive electric environment: The federal government must be careful in any legislation that it might enact to restructure the electric power industry, particularly as it affects consumer protection activities. According to a report for the U.S. Department of Energy, the 10th Amendment to the U.S. Constitution places restrictions on what the federal government may or may not do with respect to telling states what to do on electric competition.

Under the 10th Amendment, the federal government may not direct the states to take specific actions or to adopt specific policies. The reports notes, for example, that it was the 10th Amendment that was used to strike down the part of the Brady gun bill requiring local law enforcement officials to do background checks on potential hand gun purchasers. According to the Supreme Court, Congress may not "conscript the

states into the federal bureaucratic army."

A variety of models exist for federal-state relations with respect to the regulation of a major industry, the DOE report states. These range from health care, which involves an almost exclusive federal role (under ERISA's strong preemption language) to the insurance industry, which involves an almost exclusive state role. Telecommunications, banking and cable television fall in between. The federal-state relations for each of these industries is examined in the DOE report (with lessons drawn for the electric industry).

If the federal government wishes states to take specific actions with respect to electric competition --including such things as specific consumer protections, specific low-income programs, or specific forms of competition-- Congress has several options available:

- ◆ It may offer financial inducements, that may only be accessed if the states comply with the federal requests (*e.g.*, federal highway funds conditioned on raising the drinking age).
- ◆ It may condition freedom from federal preemption on compliance with federal directives (*e.g.*, continuing state surface mining regulation in lieu of federal preemption dependent on compliance with federal standards).
- ◆ It may preempt the field outright, creating federal standards that the states must apply in their decisionmaking (*e.g.*, cable television franchising).
- ◆ It may condition state participation in continuing regulation on compliance with federal directives (*e.g.*, continuing state utility regulation dependent on consideration of PURPA standards).

A copy of the publication, *The Implications of an Increased Federal Role in the Regulation of*

Electricity on State Regulation of Consumer Protection and Universal Service Programs, was prepared for DOE by Barbara Alexander, consumer affairs consultant (Winthrop, ME) and by Roger Colton in FSC's Belmont (MA) office. The report can be obtained from Oak Ridge National Laboratory, c/o Martin Marietta Corporation, in Washington D.C. (phone: 202-479-0439) (e-mail: i2j@ornl.gov).

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