

EMERGING ISSUES RELATED TO MISSION & PROGRAMS

In 2004 the federal government has taken actions that have effectively altered the fundamental arrangement between the federal government and those administering the voucher program upon which the present structure of the program is based. Under the current authorized structure of the program, the federal government agrees to make up the difference between what it actually costs a family to rent on the private market and the family can afford to pay towards rent, as defined by statute. Unfortunately, there has been a conversion towards a capped or budget-based funding system set in motion through the 2004 and 2005 appropriations process that altered the federal government's contribution toward family rents.

Example – baseline vs. budget based funding.

2004 received 91,000 less than in 2003

2005 received 105,000 less than in 2004

Problems that have emerged from this budget-based funding:

- Fewer families being served overall
- Fewer extremely low-income families being served in favor of higher-income families
- Termination of vouchers from currently assisted families
- Recall of vouchers from families searching for housing
- Banning re-issuance of turnover vouchers (vouchers returned from families exiting the program)
- Increasing household rents (pricing families out of communities of opportunity for which the program was designed)
- Decline in the number of voucher-assisted households who are successful at leasing with lower payment standards

Changes in the administrative fee has resulted in housing agency layoffs, increased workloads, reduction in services, and financial disincentives from full leasing.

Over the last two years administrative fees have been reduced by an average of 12%

Proposed legislation which will change the substantially change PH and S8V

If enacted, the bill would make truly radical changes in federal housing policy. By severing the link between funding decisions and the number of families served and enabling costs to be shifted to tenants, the **proposed program changes would make future funding cuts more likely** in both the voucher and public housing programs.

- **The federal government would no longer guarantee the affordability of housing** for the more than three million families that currently participate in the voucher and public housing programs, including more than one million elderly people and people with disabilities.

- **Nearly every core feature of the housing voucher program would be eliminated.** Agencies would be under no obligation to serve poor households or to provide assistance that is adequate to allow families a choice of where to live.
- **Families losing project-based assistance would no longer have a right to stay in their homes with voucher assistance for more than one year.** This would displace many elderly people and others from their homes of many years. Many would face new, unmanageable rent burdens.
- **Many public housing units could be lost,** replaced by “flexible voucher” assistance that would provide little help to families in paying rent.
- **The number of families receiving federal housing assistance could be sharply reduced,** exacerbating current homelessness problems.
- **HUD would have complete discretion to establish performance standards and permanently transfer program administration away from agencies** that do not meet HUD’s unspecified standards to private companies, faith- or community-based organizations, or other entities of HUD’s choosing.

Flexible Voucher Program

Targeting – No vouchers would be reserved for the lowest income families. The proposal would use the same targeting as the HOME block grant, requiring 90 percent of vouchers each year to be issued to families with incomes below 60 percent of area median income (about \$30,000 per year nationally). The remaining 10 percent could go to families with incomes up to 80 percent of area median income. (Section 107(c).) Under current rules, 75 percent of vouchers each year must go to families with incomes at or below 30 percent of the area median income level (about \$15,000 per year).

Affordability – Administering agencies could determine how much tenants would have to pay in rent without regard to income. Agencies could establish minimum rents or “flat” rents of any amount. No exceptions would be required for loss of employment or other good reason for hardship. (Section 109(c) and (d).)

Subsidy levels – Agencies could set the maximum subsidy for units at any level that is “reasonable and appropriate” for the market area, without any federal standards. Combined with the absence of affordability protections, this lack of standards means that agencies could provide shallow subsidies and shift rent burdens substantially to tenants. Choice of neighborhoods could be severely curtailed and the lowest income families and individuals could be unable to use vouchers at all if they cannot afford their share of the rent. (Section 109(f).)

Families losing project-based assistance would no longer be protected – Tenants in privately-owned buildings who face steep rent increases due to the end of federal subsidies now have a right to remain in their homes with “**enhanced**” vouchers to meet the increased rent costs. The bill would limit this protection from displacement to one year. Then families would receive regular “flexible vouchers,” under the rent rules and subsidy limits that apply to other families. (Section 115.)

Elderly and disabled families – Rent and other policy changes would not apply to existing elderly and disabled tenants until January 1, 2009. Other than this brief respite, the bill provides no assurance that agencies will continue to serve poor seniors or people with disabilities or provide them with adequate subsidies. Agencies are required only to adopt a policy “to ensure that the needs” of elderly and disabled families are met. It would be up to agencies to determine the “needs” of the elderly and people with disabilities, with no federal standards or review and no required community input. (Section 105.)

Portability – The right to move with voucher assistance would be eviscerated. Families would be able to move to other jurisdictions in the state or “region” with voucher assistance only if the agencies involved agreed. The definition of a “region” would be up to the agencies, and would not necessarily coincide with a metropolitan area. (Proposed regions that cross state lines would have to be submitted to HUD for review.) It is not clear what happens if different sets of agencies within a metropolitan area define regions in overlapping or contradictory ways. No interstate moves would be allowed except within agency-defined regions. No additional funding would be available to meet any increased costs of the moves that are permitted. (Section 113.)

Discrimination – The bill specifically permits agencies to prefer applicants with certain types of disabilities over others for any type of flexible voucher assistance. Authority to use such a discriminatory preference is not linked to the provision of a particular type of services. (It has long been a concern of advocates for people with disabilities – and HUD’s Office of Fair Housing -- that such a policy would particularly hurt those with mental disabilities.) The bill also appears to allow agencies to deny or reduce assistance to people with disabilities and families with children based on these demographic characteristics, implicitly repealing the specific protections accorded these groups under the Fair Housing Act and other laws. (Section 107(e)(2).)

Time limits and work requirements – Agencies could impose time limits of not less than five years beginning January 1, 2008 on all families that are not elderly or disabled. Families also could be required to work, comply with a self-sufficiency contract, or meet other agency-imposed conditions in order to receive assistance. (Section 107(d).)

Self-sufficiency – Despite the bill’s stated purpose to encourage self-sufficiency, it would eliminate the obligation of some agencies to operate a Family Self-Sufficiency Program. It also appears that agencies would be free to terminate the contracts of families currently enrolled in the FSS program, depriving families of case management support and the

opportunity to accumulate savings. Agencies would have to choose between spending scarce funds on staffing and savings incentives for FSS or other similar initiative and providing more adequate subsidies to additional families. (Sections 114 and 120(k).)

Public housing units could be lost and families could be required to move and face increased rent burdens – A number of current policies allow agencies to move families out of public housing that is taken out of service, temporarily or permanently, if the families receive “comparable” housing. The bill would allow agencies to substitute “flexible vouchers” for public housing, even if families with vouchers would face substantially higher rent burdens and time limits on assistance.

In addition, the bill would allow agencies to “convert” public housing to flexible voucher assistance if the reduced subsidies permitted by the new law would be less expensive than continuing to operate (and possibly rehabilitate) the public housing units. If agencies shift to shallower voucher subsidies, as they may choose to do to maintain services in the face of shrinking budgets, they may be required to convert “distressed” public housing to flexible voucher assistance. (Section 120(i)(demolition and disposition of public housing under section 18 of the U.S. Housing Act), (j)(voluntary conversion of public housing under USHA section 22), (l)(HOPE VI), and (m)(mandatory conversion of public housing under USHA section 33).

Absence of public accountability – Federal law would no longer require agencies to consult with residents, other stakeholders or the public in exercising their expanded flexibility to set key policies. The bill (section 120(a)) eliminates the requirement to have a person served by the agency on the agency governing body and allows an agency to prohibit a recipient of voucher assistance from serving on the board. No voucher policy issue would be part of the public housing agency plan process (see section 120(d)), eliminating the only right of the public or residents to comment on proposed voucher program policies.

Administration – Administration of the housing voucher program by approximately 2,500 primarily local agencies would continue. Eligibility for voucher assistance and the amount of subsidy provided could vary sharply from one community to another. Agencies would be required to determine annually whether unit rents are reasonable. (Section 109(e).) Frequency of required certification of family incomes and of unit inspections would be reduced. (Sections 107(f) and 112.)

Performance – HUD would have complete discretion to develop performance standards after a bill is enacted. (Title III of the bill indicates such performance standards could include reducing average subsidy costs and increasing homeownership opportunities, regardless of local priorities.) If HUD determines that an agency has failed to meet its performance standards, HUD may take away the agency’s funding and give it to another entity, including a for-profit company. (See sections 104(a) and 106.)

Funding – At least until 2008, each agency would receive funding “proportionate” to its 2005 funding for subsidy payments and administrative costs adjusted only for inflation.

HUD would not be required to base such adjustments on local data or to correct any error or inequities in the 2005 funding allocation. Agencies' actual funding in 2006 and 2007 could increase or decrease, depending on appropriations. HUD implicitly acknowledges that maintaining the 2005 funding policy over time is untenable, and proposes to establish a new funding formula for subsidy payments and for administrative fees by negotiated rulemaking within two years of enactment. (Sections 110, 117, and 118.)

Uses of funds – Agencies could use funds for homeownership assistance and self-sufficiency activities, as well as for rental assistance. Similar to current law, no more than 20 percent of funds could be used for project-based assistance, but there would be no limit on the amount that could be used for downpayments or other homeownership assistance. Most of the current statutory provisions concerning project-based voucher assistance would be retained. (Section 108.)

Continuity of existing homeownership and project-based agreements – Families receiving homeownership assistance on the date of enactment would continue to receive subsidy payments based on current law. Similarly, owners with project-based voucher contracts would continue to receive subsidy payments consistent with their contracts. (Section 103(c) and (d).)

Public Housing Rents

Public housing agencies would have the same options for designing public housing rent policies as they would for the voucher program. Rents would no longer be required to be proportional to income. Flat rents – with or without “tiers” based loosely on incomes – would be permitted. Minimum rents of any amount would be allowed, without any required hardship exemptions.

Current deductions for extraordinary medical expenses or child care costs would not be required. Overriding directives in other federal laws, the bill allows agencies to increase families' rent obligations if they receive other federal benefits, including Earned Income Tax Credits and Food Stamps.

If both the voucher and public housing proposals were enacted, current rent protections in federal law would apply only to families in the project-based Section 8 program where rents are determined by private owners. This would effectively repeal the “Brooke Amendment” guarantee of affordable housing, which has been a hallmark of federal housing policy for 35 years.

Moving to Work Program – New HUD Superwaiver

This new proposal is potentially even more far-reaching than the other two components of the bill. Agencies allowed to participate in a revamped MTW program would have more flexibility to redesign program policies than they would have under the voucher and rent sections. Currently, participation in the MTW demonstration is limited to 32 agencies, and these agencies are required to serve substantially the same number of families as they would without their special status. *HUD's proposal would permit*

agencies to reduce or eliminate tenant-based vouchers and to use voucher funds to operate public housing.

Participation in the new program would not be limited to high-performing larger agencies. Under the bill, agencies with more than 500 vouchers or 500 public housing units or that are “high-performers” under HUD’s current assessment systems would be eligible to participate in the new waiver program, but HUD also could allow any agency to join the MTW program (except perhaps an agency that had been found to have substantial performance problems). HUD could set criteria for other agencies to receive sweeping waivers.¹ Depending on the eligibility criteria that HUD adopts, the funding for nearly all public housing agencies could be converted to a single block grant, combining public housing and voucher funds, subject to virtually no federal rules. It is important to note, however, that the new program would not provide agencies with any special right to maintain funding in the face of federal cutbacks, unlike some agreements under the MTW demonstration.

Of particular significance if the voucher and rent sections of the bill are not adopted, the proposal would allow HUD to waive *all* statutory requirements in the voucher program and adopt any rent policy it chooses in either program. In public housing, HUD could waive all current tenant protections, including limitations on when agencies may exclude people with disabilities from public housing buildings “designated” for occupancy by the elderly. Public housing residents could lose the right to have input into agency policy-setting, to have administrative grievance hearings and to be protected against arbitrary evictions. Current law requirements to pay prevailing wages on construction projects under the Davis-Bacon Act also could be waived

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