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NATIONAL AFFORDABLE HOUSING MANAGEMENT ASSOCIATION

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The Obama Administration's Budget Request for Fiscal Year 2017

Background

On Tuesday, Feb. 9, the White House Office of Management and Budget (OMB) released President Obama's budget request to Congress for fiscal year 2017. This is President Obama's last budget request and his eighth overall since taking office in 2008. As with all previous budget requests, the president's budget serves as a promotion of the administration's ongoing agenda and a comparison document for the budgets produced by lawmakers in the House and Senate. This analysis will cover the president's FY17 budget request for key affordable housing programs.

Budget Request for HUD Programs

The budget proposes a total of $1.1 trillion in discretionary spending for FY 2017. For the U.S. Department of Housing and Urban Development (HUD), the budget requests a $1.9 billion increase over the FY 2016 enacted levels for a total amount of $48.9 billion.

Program ($ in millions)	FY 2015 Enacted	FY 2016 Enacted	FY 2017 Request
Tenant-Based Rental Assistance	$19,304	$19,629	$20,854
Contract Renewals	[17,486]	[17,682]	[18,447]
Project-Based Rental Assistance	$9,730	$10,620	$10,816
Contract Renewals	[9,520]	[10,405]	[10,581]
Contract Administrators	[210]	[215]	[235]
Housing for the Elderly (Sec. 202)	$420	$432	$505
Service Coordinators	[70]	[77]	[75]
Supportive Housing for Persons with Disabilities (Sec. 811)	$135	$150	$154
Community Development Grant	$3,000	$3,000	$2,800
HOME	$900	$950	$950

Above is a chart comparing the president's budget request with the fiscal years 2016 and 2015 enacted funding levels. As part of the president's budget, each federal department issues congressional justifications to lawmakers and the public. These documents outline why the amount of funding was requested and additional information on legislative proposals and other program initiatives.

Housing Choice Vouchers

The administration requested funding increases for nearly all affordable housing programs. The largest increase is targeted at the Housing Choice Voucher (HCV) Program with a total request of $20.854 billion, of which $18.447 billion would cover contract renewals. The administration seeks to add 10,000 new vouchers to the pool of available HCVs with this request and it anticipates that approximately 2.2 million low-income families would be housed by this funding level in 2017. The requested $1.23 billion increase for the HCV program is targeted for specific purposes: $88 million would be set aside to hold vouchers for homeless families with children, $7 million would be for new Tribal Veteran Affairs Supportive Housing vouchers, and general contract renewals would be increased by $765 million over the FY 2016 enacted level.

Additionally, the budget request contains $15 million for a proposed HCV Mobility Demonstration program, which aims to help voucher holders enter higher opportunity neighborhoods. The congressional justifications note that up to $3 million of the $15 million will fund an impact evaluation of mobility services, with the goal of identifying services that best contribute to assisting families move to higher-income areas. Public Housing Authorities (PHAs) would be able to use their administrative fees to support costs related to the demonstration.

In addition to the mobility demonstration, the budget proposes to revise the threshold for the deduction of medical and related care expenses. The budget would change the threshold for determining deductions for unreimbursed medical expenses from 3 to 10 percent of family income for its core rental assistance programs. HUD estimates that the associated savings from this change would be $30 million.

NAHMA strongly supports the funding increases requested for the HCV program and will advocate for the $20.854 billion funding level.

Project-Based Rental Assistance (PBRA)

For the Project-Based Rental Assistance (PBRA) program, the administration has requested a $196 million increase over the FY 2016 enacted level for a total amount of $10.816 billion. Of this amount, $400 million would be available for advanced appropriations for FY 2018; the advanced appropriation ensures that the program will have sufficient funding to carry it through the next fiscal year should Congress fail to provide a final appropriations agreement before the beginning of the new funding cycle. According to HUD, this proposed funding level would renew all existing contracts. NAHMA learned that HUD had sufficiently proved to lawmakers that $10.405 million was sufficient to fund all contracts for their full 12-month terms beginning on Jan. 1, 2016.

The congressional justifications outline that HUD is proposing to double the fines charged to owners of PBRA, Section 202 and Section 811 properties when project maintenance is determined to in noncompliance with program requirements. The budget indicates this is part of a larger effort being undertaken by HUD to evaluate and strengthen enforcement authorities across its portfolio of assisted properties, including a potential rule-making to update Real Estate Assessment Center (REAC) physical inspection criteria.

HUD is also pursuing technical amendments to the Low-Income Housing Preservation and Resident Homeownership Act (LIHPRHA), which was recently amended by the FAST Act in December 2015. The revisions to be released by HUD will establish internal consistency within Sections 214 and 220 of the FAST Act, support effective implementation of the intended reforms and encourage preservation transactions that maintain property affordability. Additionally, HUD is proposing to extend the Multifamily Assisted Housing Reform and Affordability Act (MAHRA) fiscal year 2015 sunset date to Oct. 1, 2019. This extension is needed for the Mark-to-Market program.

NAHMA supports the requested funding increases for PBRA in the president's budget, and we will advocate this funding level to lawmakers, as part of our ongoing advocacy activities for FY 2017.

Housing for the Elderly, Section 202

The administration has requested a $72 million increase for the Section 202, Housing for the Elderly program, for a total request of $505 million. Of this total amount, $75 million would be reserved for Service Coordinators, a $2 million decrease from the FY 2016 enacted level.

HUD is requesting a new proposal to expand the second component of RAD to include the conversion of Section 202 PRAC properties. HUD notes that if enacted, it could preserve quality units without increased federal outlays, which would improve affordable housing for low-income households and create thousands of new jobs.

Along with the proposal to double the financial penalties on owners who fail to maintain properties in compliance with program requirements, HUD also proposes to expand the list of violations under the Civil Money Penalties to include failure to maintain the property.

Housing for Persons with Disabilities, Section 811

An increase was also requested for the Section 811, Housing for Persons with Disabilities programs, albeit a marginal $3 million increase for a total of $154 million. The Section 811 program did receive an increase of $15 million for FY 2016, and NAHMA supports the Obama administration's budget request figure as step in a positive direction.

The budget proposes to grant HUD the flexibility to transfer Section 811 subsidies to properties that comply with local Olmstead requirements, which prohibit the unlawful segregation of persons with disabilities. This is the only proposed change for Section 811, outside of the request to double fines when project maintenance is determined to in noncompliance with program requirements.

Rental Assistance Demonstration (RAD)

The FY 2017 budget request proposes to expand RAD by removing the 185,000 unit cap on the number of public housing units that can be converted from public housing to Section 8 rental assistance contracts. The budget also proposes to eliminate the Sept. 30, 2018, deadline for submission of RAD applications under the first component. HUD proposes to standardize ownership and control requirements for converted public housing properties by permitting nonprofit ownership in conversions where low-income housing tax credits are used or where foreclosure, bankruptcy or default occurs, and authorizing a tenant's right to continued occupancy for conversions under the second component.

Additionally, HUD and the administration request $50 million for the incremental subsidy costs of converting assistance under RAD. This funding will be targeted to public housing and 202 PRAC projects that cannot be converted at current funding levels, which will support the conversion and redevelopment of approximately 25,000 public housing and 202 PRAC units that otherwise could not convert.

HOME Investment Partnerships Program

For the HOME Investment Partnerships program, the administration has requested a continuation of the FY 2016 funding level of $950 million. In comparison, the administration had requested a $110 million increase for the program in its FY 2016 budget for a total amount of $1.06 billion.

Since HOME is used as gap financing for the construction/rehabilitation of multifamily properties under the Low-Income Housing Tax Credit (LIHTC), the program has a great impact in the construction of new affordable units. There is strong bipartisan support for HOME, but the funding for the program has fluctuated over the past five fiscal years. The program was also threatened in FY 2016 due to devastating funding cuts proposed by the Senate Appropriations Committee in its initial funding bill for housing programs. The Senate would have cut the program by 93 percent; the House also proposed cutting the program and redirecting funds from the Housing Trust Fund into HOME.

NAHMA was strictly opposed to these cuts and fortunately HOME ultimately received a funding increase in FY 2016. Though NAHMA supported the FY 2016 increase, we continue to cite $1.2 billion as the optimal funding level for HOME.

There were numerous policy changes proposed for HOME as outlined in the congressional justifications. First, HUD seeks to eliminate the 24-month commitment requirement from the HOME statute. Currently, the HOME statute requires that HOME funds be committed to projects within 24 months of HUD notifying the participating jurisdictions of its obligation of the HOME grant. However, a July 2013 Government Accountability Office (GAO) decision requires HUD to change its method of determining compliance to a grant-specific method. The elimination of the 24-month commitment requirement would prevent the participating jurisdictions from losing funds that become uncommitted should they fail to meet the 24-month commitment requirement. Participating jurisdictions would instead be able to recommit those funds to other projects, which will have to be completed within four years.

The HOME statute also requires that within 24 months of receiving its grant, not less than 15 percent of each participating jurisdiction's grant be reserved for projects owned, developed, or sponsored by Community Housing Development Organizations (CHDOs). The budget seeks to eliminate this statute since it is extremely difficult for participating jurisdictions receiving smaller and smaller allocations to administer this 15 percent set aside.

Finally, HUD is also proposing to eliminate the $335,000 allocation threshold for years in which the HOME appropriations provided by Congress are less than $1.5 billion. A more stable threshold of $500,000 regardless of appropriation amount is cited as the ideal threshold. HUD is also proposing to eliminate continuous grandfathering of participating jurisdictions and insert a provision that would grandfather participating jurisdictions for five-year periods running concurrently with their consolidated plan period. These proposed changes would result in the elimination of more than 250 local participating jurisdictions after three years in a five-year period with an allocation of less than $500,000.

Community Development Block Grant

The one funding reduction proposed in the administration's budget is the request for the Community Development Block Grant (CDBG). The total request of $2.8 billion represents a $200 million decrease from the FY 2016 enacted level. CDBG funds are distributed to local municipalities and they may be used for a wide variety of expenses, including the development or redevelopment of affordable housing. A funding cut to this program would be irresponsible and NAHMA will advocate for a continuation of the FY 2016 enacted level rather than the administration's proposed funding amount for FY 2017.

Funding Request to Combat Homelessness

Additionally, the administration has requested funding for a major initiative – $11 billion in mandatory spending to combat family homelessness. This is the first time a president has requested mandatory spending for homelessness prevention.

The difference between mandatory and discretionary spending is mandatory spending must be provided each year and is not subject to appropriations. For example, Social Security and defense spending is mandatory and cannot be altered through the annual appropriations bills. Discretionary spending fluctuates each year and is determined by the Appropriations committees, such as spending for HUD's housing programs. With the requested $11 billion, the administration seeks to eliminate family homelessness by 2020. This funding would also be used to support tribal communities and revitalize high-poverty neighborhoods.

<u>Budget Request for Rural Housing Programs</u>

The administration has requested increases across the board for rural housing programs administered by the U.S. Department of Agriculture's (USDA) Rural Development (RD). The administration is also pursuing additional preservation options that will preserve rural properties. Below is a chart comparing the FY 2017 budget request with the fiscal years 2015 and 2016 enacted levels.

Program ($ in millions)	**FY 2015 Enacted**	**FY 2016 Enacted**	**FY 2017 Request**
Section 521 Rental Assistance	$1,088	$1,389	$1,405
Section 515	$28.40	$28.398	$33.074
Multifamily Revitalization	$24	$37.0	$37.3
Rural Housing Vouchers	[$7]	[$15.0]	[$18.0]
Section 538 Loan Level	$150	$150	$230

Section 521 Rental Assistance

The Section 521 Rural Rental Assistance (RA) program received a $16 million proposed increase over the FY 2016 level, and the administration has not pursued language that would result in the nonrenewal of contracts within the 12-month contract period.

In the FY 2015 Agriculture Appropriations bill, Congress adopted language which eliminated the automatic renewal of RA contracts that occur within the 12-month contract period. NAHMA and other industry groups opposed this change, but it was enacted. Then in the summer of 2015, many rural property owners whose RA funding had been prematurely exhausted learned from RD that no additional RA funding was available. The situation soon spiraled out of control; hundreds of properties were left without adequate RA and several NAHMA members who participate in the program were affected and did not receive RA for multiple months.

NAHMA met with appropriations staff to correct this issue and reverse the problematic language from the FY 2015 Agriculture Appropriations bill that prevented properties from renewing RA funding within their 12-month contract period. The FY 2016 appropriations legislation increased the RA funding level to help RD in compensating property owners. RD was also eventually provided with the authority to retroactively pay owners who did not receive their RA. Lawmakers also included language which gave the USDA the authority to recapture RA from properties that received more funding than their true need.

The president's budget does not prevent contracts from being renewed within their 12-month contract period, and the authority to recapture RA from properties that received too much was included. NAHMA supports the administration's request and we believe that $1.4 billion will make the program more secure. Furthermore, the administration has requested an advanced appropriation of $75 million for the RA program. NAHMA has pursued this allocation as the best option to make program funding more secure and we believe implementation of this proposal will eliminate the possibility of future mishaps in the distribution of RA.

Section 515

The administration has proposed a $5 million increase for the Section 515 Multifamily Mortgage program. The budget also includes language making rental assistance agreements eligible for multifamily housing revitalization funding, simplifying the approval process to carry out a multifamily rental housing loan restructuring program and other incentives for owners with maturing mortgage properties to preserve affordable rental housing. The budget also seeks permanent authority for the revitalization program, which has been a demonstration program since 2006.

The Section 515 portfolio is facing an impending crisis due to the number of properties which are now reaching the end of their mortgage. Under current law, when a Section 515 mortgage expires, the Section 521 RA which makes the property affordable also expires. The loss of RA causes rent increases and would likely make the units too expensive for low-income residents to afford. According to RD, loans on more than 11,500 properties will mature by the year 2024. This represents nearly 333,845 units of affordable housing.

NAHMA and other industry groups have been actively raising awareness of this issue with lawmakers and stakeholders. Fortunately, these efforts are working and members of Congress and staff of the GAO are paying attention. The GAO has been requested to provide an analysis on the number of properties that could lose their affordability and RD's preservation strategies for the portfolio. NAHMA hopes that this report will shed more light on the issues in the 515 portfolio and will identify solutions to ensure that no residents lose their homes.

We support the requested increase for Section 515 and efforts to preserve multifamily properties in the rural portfolio.

Multifamily Revitalization Program and Rural Housing Vouchers

The FY 2016 appropriations provided a significant increase for the Multifamily Revitalization Program and Rural Housing Vouchers, and the administration has proposed another, though more modest, increase for the program. The $3 million increase requested for the program is entirely directed at Rural Housing Vouchers (RHVs).

The funding for RHVs is especially critical in light of the issues facing the Section 515 portfolio. These vouchers may be used by residents of rental housing projects financed through Section 515 loans that have seen their mortgages prepaid after Sept. 30, 2005. They allow tenants to remain in existing communities or move to other rental housing. NAHMA supports expanding the use of Rural Housing Vouchers to protect tenants, and we will advocate for the requested funding increase.

Tax Credit Proposals

Along with the new requested funding levels for HUD and Rural Housing programs, the administration's budget contains requested alterations to various tax programs, including the Low-Income Housing Tax Credit (LIHTC). Several of these proposals have been requested before, but were not adopted by Congress.

The budget again proposes to allow states to convert up to 18 percent of their annual private activity bond (PAB) volume cap into allocated LIHTCs. States would be authorized to convert PAB volume cap to be received for a calendar year into LIHTC allocation authorization applicable to the same year. The conversion ratio would be reset each calendar year to respond to changing interest rates. The aggregate amount of PAB volume cap that each state may convert in a calendar year is 18 percent. The administration has estimated this would enable states to increase their housing credit caps by 50 percent.

Next, the administration has again requested to add preservation of federally assisted affordable housing as an 11th selection criterion that state qualified allocation plans (QAPs) must include in their allocation of LIHTCs. The proposal would be effective for allocations made in calendar years beginning after the date of enactment. This request was included in the administration's FY 2015 and 2016 budgets.

Another proposal would add a third criterion to the LIHTC qualifying criteria. When a taxpayer elects this criterion, at least 40 percent of the units in the project would have to be occupied by tenants with incomes that average no more than 60 percent of area median income (AMI). No rent-restricted unit, however, could be occupied by a tenant with income over 80 percent of AMI; and, for purposes of computing the average, any unit with an income limit that is less than 20 percent of AMI would be treated as having a 20 percent limit. Maximum allowable rents would be determined according to the income limit of the unit. When the tenant moves out, if the unit is to continue to be rent restricted, the income restriction on the unit would revert to 60 percent of AMI. The administration included this request in its fiscal years 2015 and 2016 budgets; NAHMA supports this proposal.

Also, the budget proposes to implement protections for victims of domestic abuse that would be required in all Long-Term Use Agreements. These provisions would apply to both the low-income and the market-rate units in the building. The owner could not refuse to rent any unit in the building to a person because that person had experienced domestic abuse. Moreover, an experience of domestic abuse would not be cause for terminating a tenant’s occupancy. Under the Agreement, an owner could bifurcate a lease so that the owner could evict a tenant or lawful occupant who engaged in criminal activity directly relating to domestic abuse. The administration included this proposal in the fiscal years 2015 and 2016 budget requests, and has done so again because the 2013 Violence Against Women Act (VAWA) Reauthorization lacked enforcement provisions for LIHTC properties.

Finally, the budget again proposes to allow HUD to designate any census tract as a Qualified Census Tract (QCT) if it meets the current statutory criteria with a poverty rate of at least 25 percent or 50 percent or more of households with an income less than 60 percent of AMI. In essence, the proposal would remove the current limit under which the aggregate population in census tracts designated as QCTs cannot exceed 20 percent of the metropolitan area's population. This change would apply to buildings that receive allocations of LIHTCs or volume cap after the date of enactment. This proposal was first included in the FY 2016 budget.

Overview

Overall, the administration’s budget maintains a commitment to affordable housing programs and NAHMA supports the requested funding increases for various programs.

Unfortunately, lawmakers in the House and Senate are unlikely to adopt the administration’s budget in its entirety. NAHMA will continue to advocate for the requested program increases, and language that promotes preservation and improvements at multifamily properties. We look forward to working with Congress as they begin developing the FY2017 appropriation bills.