

NAHMAanalysis

NATIONAL AFFORDABLE HOUSING MANAGEMENT ASSOCIATION

Ensuring NAHMA Members Receive the Latest News and Analysis of Breaking Issues in Affordable Housing

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Final Appropriations for Fiscal Year 2016

Background

On Friday, December 18, the Consolidated Appropriations Act of 2016 was passed into law. This appropriations bill was an omnibus package, meaning it combined the 12 regular appropriations bills into one, including the Transportation, Housing and Urban Development (T-HUD) bill for the remainder of fiscal year 2016.

The path to this omnibus was rocky and full of partisan conflict over spending levels. This past summer, lawmakers in the Senate and House Appropriations Committees had released T-HUD funding bills which would have been devastating to affordable housing programs. As outlined in a previous NAHMAanalysis, the appropriators were working under very tight spending caps as mandated by the Budget Control Act of 2011. If these budget caps were exceeded, then arbitrary spending cuts known as sequestration would be implemented across all federal programs. These caps were found to be unworkable due to the “tyranny of math” as Senate T-HUD Appropriations Chair Susan Collins (R-ME) quipped during their T-HUD bill markup earlier this year.

Though the House managed to pass most of its Appropriations bills, none were passed in the Senate and it soon became evident that lawmakers would need to pass a continuing resolution (CR) to continue funding past the end of the federal fiscal year (September 30). A CR was subsequently passed at the end of September and provided funding at the FY 2015 level until December 11, 2015.

Congress used the time granted by the CR to negotiate a budget deal. On October 30, the Bipartisan Budget Act of 2015 was passed by both chambers of Congress and signed into law. This budget deal allowed for an additional \$80 billion in spending over FYs 2016 and 2017, an amount achieved through offsets in other federal accounts. Most importantly, the budget deal gave appropriators more breathing room to design the omnibus bill. Another temporary CR was passed on the 11th to continue funding until December 16, since lawmakers needed more time to finalize the omnibus.

Appropriations for HUD’s Affordable Housing Programs

Below is a chart containing the funding figures provided for HUD affordable housing programs in the omnibus bill compared to the Obama Administration’s Budget Request for FY 2016 as well as the FY 2015 enacted level.

	FY 2016 Omnibus	FY 2016 Budget Request	FY 2015 Enacted
Tenant-Based Rental Assistance	\$19,628	\$21,124	\$19,304
Contract Renewals	[17,681]	[18,334]	[17,486]
Project-Based Rental Assistance	\$10,622	\$10,760	\$9,730
Contract Renewals	[10,407]	[10,545]	[9,520]
Contract Administrators	[215]	[215]	[210]
Supportive Housing for the Elderly (Sec. 202)	\$432	\$455	\$420
Service Coordinators	[77]	[77]	[70]
Supportive Housing for Persons with Disabilities (Sec. 811)	\$150	\$177	\$135
Community Development Block Grant	\$3,000	\$2,800	\$3,000
HOME	\$950	1,060	\$900

*Figures expressed in millions

Project-Based Section 8

The omnibus provides a total of \$10.622 billion for the Project-Based Section 8 (PBS8) program in FY 2016, of which \$10.407 billion is provided for the renewal of contracts. The contract renewal amount is \$138 million below the Obama Administration's budget request and is approximately \$887 million above the FY 2015 enacted level.

Throughout 2015, HUD began the process of transferring all PBS8 contracts to the calendar year funding model. Under the calendar year funding model, all contracts would be funded once on January 1 regardless of the contract's anniversary date. Essentially, the contract anniversary date would be divorced from the single contract funding date. Contracts would be funded from January 1 through December 31, but renewal anniversary dates will still fall throughout the year.

Figures for the total cost to fund all PBS8 contracts in FY 2016 varied greatly, but NAHMA pegged \$10.8 billion as the minimum funding threshold in our advocacy efforts. The omnibus bill contains \$10.407 billion for contract renewals. While this number is lower than our initial figure, NAHMA has learned that lawmakers and HUD have determined that \$10.407 will be sufficient to fund all contracts for their full 12-month terms beginning on January 1, 2016.

Tenant-Based Rental Assistance (Housing Choice Vouchers)

A total of \$19.628 billion is provided for the Tenant-Based Rental Assistance Program (also known as housing Choice Vouchers), of which \$17.681 billion is provided for voucher renewal. The amount for voucher renewals is \$195 million above the FY 2015 enacted level but is \$653 million below the Obama Administration's budget request.

After sequestration was implemented in 2013 due to federal spending exceeding the set limit as agreed to in the Budget Control Act, funding for all discretionary federal programs was cut by 5 percent. In the Tenant-Based Rental Assistance Program 67,000 vouchers had to be recalled

by Public Housing Authorities (PHAs). This was a major blow to low-income families who essentially had their housing voucher stripped from them and to cities that have waiting lists containing tens of thousands of people.

In the President's Budget for FY 2016, the Obama administration aimed to restore all of the lost vouchers through increased funding. The omnibus does not deliver the requested increase and it provides only a moderate increase over the FY 2015 enacted level. However, in the committee report which accompanies each appropriations bill, lawmakers highlighted their reason for this decision: "The agreement provides funding for the full voucher renewal need (100 percent renewal), based on revised estimates from the Department that reflects more accurate and updated data since the submission of the budget request."

The \$19.628 billion total for Housing Choice Vouchers does include funding explicitly for new vouchers under the HUD-Veterans Affairs Supportive Housing Program (HUD-VASH).

Section 202 Supportive Housing for the Elderly

The omnibus contains \$432 million for the Section 202 Housing for the Elderly program. Of this amount, \$77 million is set aside for Service Coordinators. The total amount provided to Section 202 in the omnibus is higher than the enacted FY 2015 level, but it is \$23 million below the Obama Administration's request. Still, NAHMA supports the \$432 million in funding and the amount allotted to Service Coordinators.

In 2014, Congress provided HUD with funding for a demonstration program to test different models of housing with services for the elderly. Called "Housing with Services Models for the Elderly", the demonstration sought to improve property-centered health services for seniors such as "enhanced service coordinator" positions. The omnibus however does not provide additional funding for this demonstration program.

Section 811 Supportive Housing for Persons with Disabilities

The omnibus provides a total of \$150 million for the Section 811 Housing for Persons with Disabilities program. This amount is \$15 million above the FY 2015 enacted level, but is \$27 million below the President's request. NAHMA supported the Obama Administration's budget request figure. Still the moderate increase is a step in a positive direction and NAHMA supports the increase as included in the omnibus.

HOME Investment Partnerships Program

A total of \$950 million is provided for the HOME Investment Partnerships program, an amount which is \$50 million above the FY 2015 enacted level but is \$110 million below the Obama Administration's budget request.

One of the most alarming provisions from the Senate's T-HUD Appropriations bill earlier this year was the dramatic cut to HOME. The Senate targeted \$66 million for the program, which would have amounted to a 93 percent cut from the FY 2015 enacted level. Since HOME is used as gap financing for the construction/rehabilitation of multifamily properties under the Low-Income Housing Tax Credit (LIHTC), this cut would have greatly impacted the construction of new affordable units.

The House T-HUD appropriations bill from earlier this year would have also severely cut HOME. In the House bill \$900 million would have been made available for HOME, but of this amount, \$767 million was directly appropriated. The remaining amount to achieve a funding level of \$900 million would have come from the Housing Trust Fund (HTF). The HTF is an affordable housing production program that complements existing Federal, state and local efforts to increase and preserve the supply of housing. It was first established under the Housing and Economic Recovery Act of 2008, but it was only recently authorized use the funding it receives from the government sponsored enterprises (GSEs) Fannie Mae and Freddie Mac. NAHMA was strictly opposed to this change; we insisted to Congress that the HOME and HTF funding streams should remain separate.

Fortunately, lawmakers have decided not to raid the HTF and place cuts on HOME. NAHMA supports the \$950 million slated in the omnibus for HOME in FY 2016.

Community Development Block Grant

The \$3 billion slated for the Community Development Block Grant (CDBG) program is consistent with the FY 2015 enacted level and is \$200 million higher than the President's request. NAHMA supports the omnibus figure for CDBG in FY 2016.

Appropriations for Rural Housing Programs

The funding provided to affordable housing programs administered by the U.S. Department of Agriculture's Rural Development (RD) is strong in the omnibus and will assist the agency in addressing its recent shortfall in the Section 521 Rental Assistance (RA) program.

Below is a chart containing the funding figures provided for RD affordable housing programs in the omnibus bill compared to the Obama Administration's Budget Request for FY 2016 as well as the FY 2015 enacted level.

Program	FY 2016 Omnibus	FY 2016 Budget Request	FY 2015 Enacted
Section 521 Rental Assistance	\$1,389	\$1,172	\$1,088
Section 515	\$28.398	\$47.27	\$28.40
Multifamily Revitalization	\$37.0	\$34	\$24
Rural Housing Vouchers	[\$15.0]	[\$15]	[\$7]
Section 538 Loan Level	\$150	\$200	\$150

*Figures expressed in millions

Section 521 Rental Assistance

The omnibus provides a total of \$1.389 billion for the Section 521 RA program. This amount is \$301 million above the FY 2015 enacted level and \$211 million above the Obama

Administration's budget request. NAHMA anticipates that this large increase will allow RD to compensate owners who did not receive RA this summer and fall.

In the FY 2015 Agriculture Appropriations bill, (Division A of the Consolidated and Further Continuing Appropriations Act, 2015) Congress adopted language which eliminated the automatic renewal of rental assistance contracts that occur within the 12-month contract period in the Section 521 program. NAHMA and other industry groups opposed this change, but it was enacted. Then in the summer of this year, rural property owners whose RA funding had been prematurely exhausted learned from RD that no additional RA funding was available in FY 2015. RD initially stated then that this issue would be limited to 50 properties. However, it soon became evident that but the problem exceeded that estimate as more O/As discovered that RA funding was no longer available. Several NAHMA members who participate in the RA 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. We compiled new language for the CR passed on September 30, 2015 which allowed RD to retroactively pay underfunded contracts from FY 2015 with FY 2016 RA funding. Additionally, the agency has stated that it is using a new forecasting method for determining the RA need.

The omnibus also addresses many of NAHMA's concerns for the RA program. First, the increased funding level is expected to further help RD in compensating property owners and ensuring that all contracts are funded for their full 12-month terms. Additionally, the controversial language barring contracts from being renewed within the 12-month period has been removed. This is a major victory which will help prevent future contract shortfalls.

Also included is new language which further provides the agency with the authority to retroactively pay owners who did not receive their RA in FY 2015 and the Beginning of FY 2016. This language also grants the Secretary for the U.S. Department of Agriculture the authority to recapture RA from properties that received more funding than their true need:

“the Secretary may recapture rental assistance provided under agreements entered into prior to fiscal year 2016 for a project that the Secretary determines no longer needs rental assistance and use such recaptured funds for current needs as well as unmet rental assistance needs from fiscal year 2015.”

The agency noted that while many contracts were underfunded in FY 2015, some received a funding amount greater than the properties' true cost. With the new forecasting method for RA payments, it is expected that the agency will resolve these differences and that all properties receiving Section 521 RA will be given the correct funding.

The Committee Report accompanying the omnibus further directs RD to address issues in the RA program:

“The agreement expects that the Rural Housing Service will continue to take steps to use to the maximum extent possible rental assistance from expired agreements to address shortfalls. Provisions in the Rental Assistance appropriations are meant to confirm these actions and encourage them to continue...The agreement also directs the Secretary to provide the Committees quarterly reports on the number of renewal agreements approved, the amount of

rental assistance available, and the anticipated need for rental assistance for the remainder of the fiscal year.”

If you are an owner or manager of a Section 521 property and you continue to have issues with RA funding, we ask that you contact NAHMA staff as soon as possible. We want to ensure that all properties are funded for their full 12-month term and we would want RD to be aware of any lingering issues.

Section 515 Rural Rental Housing Loans

For the Section 515 Rural Rental Housing Loans program, the omnibus provides \$28.398 million, an amount which is nearly \$14 million below the Obama Administration’s budget request and is on par with the FY 2015 enacted level.

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. Over 400,000 low-income residents live in rental housing financed through Section 515, so the loss of units would be devastating for rural communities.

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 Government Accountability Office (GAO) are paying attention. In the Committee Report, the growing concerns in the Section 515 portfolio are acknowledged:

“The increasing number of Section 515 multifamily housing loans that are reaching maturity and being paid off is a significant threat to very low-income rural households needing affordable housing. As these developments result in projects leaving the program, very low income households face untenable rent increases and possible eviction. The Secretary [of the USDA] is directed to: provide every assistance possible to the Government Accountability Office in their analysis of this issue; review and evaluate all authorities available under Section 510 of the Housing Act of 1949; and, in conjunction with program partners and other interested parties, develop innovative options to retain projects in USDA's affordable housing program.”

The GAO analysis requested by the committee seeks answers 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 will also work with RD to determine a solution that works best for both owners and tenants.

Multifamily Revitalization Program and Rural Housing Vouchers

The omnibus provides a major increase for the Multifamily Revitalization Program and Rural Housing Vouchers. A total of \$37 million will be provided for the Revitalization program, of which \$15 million is designated for Rural Housing Vouchers. This represents a \$13 million increase

over the FY 2015 enacted level, and an allocation that is more than double for Rural Housing Vouchers.

The funding for Rural Housing Vouchers 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 September 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 in properties with maturing Section 515 mortgages, and we have urged lawmakers to ensure the appropriations language achieves this goal. The increase included in the omnibus shows that lawmakers are taking steps to protect low-income tenants.

Section 538 Multifamily Housing Guarantees

The Section 538 Multifamily Loan Guarantee program provides loan guarantees which encourage construction, acquisition, or rehabilitation of rural multifamily housing for low-income residents. NAHMA prefers the President's budget figure of \$200 million for this program, but we can support the \$150 million appropriations for FY 2016.

Conclusion

While the omnibus appropriations bill for FY 2016 is not perfect, it does address some of NAHMA's most important goals, especially in the Section 521 Rental Assistance program. Arriving at this point was not easy, and the appropriations process for FY 2106 was as rife with partisan conflict or more so than any other recent year.

The most important event has been the passage of the two-year budget agreement which lifted the spending caps for FYs 2016 and 2017. Without this agreement, lawmakers would have been forced to either pass appropriations legislation under the strict budget caps or to pass a full-year continuing resolution. Both scenarios would have been devastating to affordable housing programs.

NAHMA will continue to monitor the most important program considerations such as the funding for PBS8 in FY 2016. We want to ensure that all affordable housing programs have received full-funding through the omnibus so that situations like the Section 521 RA contract shortfall calamity do not occur in other programs.

Additional Resources

[FY 2016 Omnibus text](#)

[Committee Report: Transportation, Housing and Urban Development](#) (housing programs begin on page 39)

[Committee Report: U.S. Department of Agriculture, Rural Development](#) (housing programs begin on page 18)

[NAHMA Analysis 2015-0213: Fiscal Year 2016 Budget Request for Affordable Housing Programs](#)