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NATIONAL AFFORDABLE HOUSING MANAGEMENT ASSOCIATION

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Fiscal Year 2015 Budget Request for Affordable Housing Programs

Background

On March 4, 2014 the Obama Administration issued its budget request for fiscal year 2015. Under the Budget and Accounting Act, the President's budget should have been issued on the first Monday in February. The Administration cites the 2013 budget agreements in Congress and the FY 2014 Omnibus bill as the reason for the delay.

While the submission deadline of the President's budget is required by law, the actual numbers and funding levels in the budget do not become law. Instead the President's budget serves as a framework for Congress to compare and complete its own budget, and it also serves as a set of policy recommendations for the upcoming fiscal year. The newly released budget for FY 2015 adheres to the spending levels agreed to in the Bipartisan Budget Act, but the Administration has also included an additional $56 billion for an "Opportunity, Growth, and Security Initiative" which would be spent evenly between defense and non-defense programs. This initiative would be paid for through offsets that the Administration expects from the closing of tax "loopholes" and other cost savings.

Budget Request for HUD Multifamily Programs

For the Department of Housing and Urban Development, the requested gross discretionary budget authority is $46.66 billion, an amount that is 2.6% more than what was appropriated for FY 2014 and 10.1% over the FY 2013 post-sequestration level. With the 2.6% funding increase over FY 2014, the Obama Administration's FY 2015 budget proposes higher funding levels for some HUD programs. There are considerable increases for Section 202 Supportive Housing for the Elderly and for the Tenant-Based Section 8 program. However, a major area of concern in this budget is the proposed funding level for the Project-based Section 8 (PBS8) program.

On the next page is a chart comparing the funding levels in this proposed budget with the FY 2014 and FY 2013 appropriations.

	Project-Based Section 8	Tenant-Based Section 8	HOME	Section 202	Section 811	Community Development Block Grant
FY 2015 Budget Request	$9.75 Billion	$20.05 Billion	$950 Million	$440 Million	$160 Million	$2.80 Billion
FY 2014 Enacted Level	$9.92 Billion	$19.18 Billion	$1 Billion	$383.5 Million	$126 Million	$3.03 Billion
FY 2013 Post-Sequester Level	$8.85 Billion	$17.96 Billion	$948 Million	$355 Million	$156 Million	$3.08 Billion

Congressional Justifications

Following the release of the President's budget, each department issues its Congressional Justifications to lawmakers and the public. These documents outline why the amount of funding was requested and they include additional information on legislative authority requests and other program initiatives. Please follow the relevant web links for each program to be directed to the specific Congressional Justifications document.

Project-Based Section 8 (PBS8)

For Project-based Section 8, the Department is requesting $9.75 billion, an amount that is $170 million below the FY 2014 enacted level. In total, $9.54 billion would be used for contract renewals. Also included in this amount is $400 million in advanced appropriations that could be used during times of budget uncertainty such as before a continuing resolution for federal funding is passed or if the government was to shut down again.

The slated $9.75 billion for PBS8 is insufficient to provide full-funding for 12 month contract terms. HUD has stated that the reason for this lower request in FY 2015 is due to the Department's desire to shift contract renewals to a "calendar year" schedule beginning on January 1 rather than the current cycle of contract renewals beginning on October 1 (the first day of the new fiscal year). If this proposal were adopted, HUD believes that it will minimize funding disruptions that occur during end-of-year budget delays and that it would lead to consistent 12 month funding in FY 2016 and beyond. Other HUD programs currently use a calendar year payment cycle, such as the tenant-based voucher program.

Yet the Department has been vague about the actual implementation of such a transition for PBS8. NAHMA and other industry stakeholders are skeptical about the numbers adding up and the exact math that would be necessary to implement this proposal. HUD officials have stated that a calendar year cycle will assist the Department in understanding the true need for the program in the future, and that this information can be delivered to Congress when they begin the appropriations process. However, there is skepticism that this transition will actually lead to 12 month funding in the future since the automatic budget cuts known as sequestration are set to resume in 2016.

Also the Department requests several new demonstration and legislative authorities for the Project-Based Section 8 program in FY 2015, including:

- Pay for Success: The Department proposes a general provision that would establish a Pay for Success demonstration that allows the Department to enter multi-year agreements to repay private investors who provide upfront funding for energy efficiency retrofits of HUD-assisted housing.
- Other Preservation Strategies: The Department proposes a general provision that would facilitate the refinance and recapitalization of projects that have use agreements imposed by the Low-Income Housing Preservation and Resident Homeownership Act (LIHPRHA). This proposal will align owner distribution and prepayment policies in LIHPRHA-governed properties with other PBS8-assisted properties in order to facilitate preservation transactions.
- Extension of Authority to Restructure FHA Insured Mortgages with PBS8: This general provision extends the sunset date for the mortgage structuring authority in the Section 8 Mark-to-Market program. Additional eligible projects are expected to benefit from restructuring beyond the current authorization period, which expires at the end of fiscal year 2015. The Mark-to-Market program is designed to preserve low-income rental housing affordability while reducing the long-term costs of federal rental assistance for certain multifamily rental projects.

Additionally, the Congressional Justifications elaborate on the proposed shift to a calendar funding approach for PBS8:

> "HUD will provide funding through calendar year 2015 (January through December) for all multiyear contracts in the middle of their contract terms. For contracts whose term expires during fiscal year 2015 and a new contract is executed, HUD will place 12 months of funding on such contracts at the time of renewal (however, the subsequent renewal would be funded only through the calendar year, in order to transition to the calendar year funding cycle)."

Tenant-Based Rental Assistance

The Department's request of $20.05 billion for the Housing Choice Voucher (HCV) Program in FY 2015 is an increase of $868 million from the FY 2014 enacted level. Of this amount, $18.01 billion is slated for contract renewals. The Department notes that Public Housing Agencies (PHAs) have requested relief from various HCV requirements, and that these requests were evaluated before the budget was issued. The FY 2015 cross-cutting proposals include:

- A revision of the threshold for deduction of medical and related care expenses: The change would increase the threshold for the deduction of medical and related care expenses from 3 to 10 percent of family income. This provision was included in the Department's fiscal year 2014 budget request and they estimate this provision would generate savings of $30 million in FY 2015.
- Improving the process for establishing fair market rents (FMRs): This proposal removes the statutory requirement that FMRs be published for comment in the Federal Register, and HUD would instead publish the proposed FMRs to their website along with any proposed material changes in methodology. A similar version of this language appeared in the Affordable Housing and Self-Sufficiency Act (AHSSIA).
- Authorization for Indian tribes and tribally designated housing entities to administer HUD-VASH assistance.
- A proposal for PHAs to stop reissuing Tenant Protection Vouchers (TPVs) if they are not replacing the loss of affordable units in a community: In the case of the Choice Neighborhoods Initiative, certain public housing demolition and disposition actions, and the

new Section 8(bb) transfer proposal, HUD claims that allocation of TPVs will often result in a significant net gain of affordable housing resources for the community.

The Obama Administration believes that TPVs that are not replacement vouchers (vouchers that are replacing the loss of affordable units in the community) should be used as a temporary resource that is made available only to assist only the individual family impacted by the conversion action while the property is redeveloped or the project-based assistance is transferred to a new property. Also, TPVs would continue to assist those families who have decided not to return when the redevelopment or transfer is complete. Once that family leaves the HCV program for any reason, the voucher may not be reissued to another family. The number of vouchers authorized under the PHA's Consolidated Annual Contributions Contract will subsequently be reduced to reflect that the family has left the program. TPVs that are replacement vouchers may continue to be used to assist other families after the initial family has left the program.

- Facilitate the conversion of Rent Supplemental/RAP units to PBS8 for preservation under the Rental Assistance Demonstration (RAD) Program: The Department is proposing to offer owners of Rent Supplement, Rental Assistance Payment [RAP], and Section 8 Moderate Rehabilitation the ability to convert to Project Based Section 8 contracts. Currently, such owners are able to convert the TPV assistance that is triggered at contract expiration or termination to Project Based Voucher (PBV) assistance. This proposal allows the option to convert to PBS8, using recaptures, other funds, and, as necessary, the TPV funding that would have been triggered at contract termination or expiration.

HOME Investment Partnership Program (HOME)

For FY 2015, the Department requests $950 million for the HOME Investment Partnerships program, an amount that is $50 million less than the 2014 enacted level. HUD cites the tight funding restraints as the reason for this decrease. In its Congressional Justification for HOME, the Department requests new legislative authorities, including:

- Providing exception to 30-day requirements notice for eviction or failure to renew lease: This proposal would provide for an exception to the requirement that tenants of HOME-assisted rental units be provided with 30-day written notice of the owner's intention to evict or deny lease renewal. The 30-day requirement would remain in place, except in instances in which the tenant's presence in the unit constitutes a direct threat to the safety of tenants or employees of the housing or presents an imminent threat to the property. This proposal was included in the FY 2014 budget request as well.

Community Development Block Grant (CDBG)

For FY 2015, HUD is requesting $2.8 billion for the Community Development Block Grant (CDBG) formula allocation, which is a reduction of $230 million or 7.6 percent for formula allocation purposes in comparison to FY 2014.

Housing for the Elderly (Section 202)

The Department requests $440 million for the Housing for the Elderly (Section 202) program in FY 2015, an increase of $56.5 million above the 2014 Enacted level. Of this amount, $70 million is proposed for renewal of Service Coordinator agreements, a $2 million reduction from the FY 2014 enacted level. Additionally, $350 million is set for the renewal and amendment of project rental assistance contracts (PRACs). The Budget request also seeks to renew HUD's FY 2014 authority to allow the Department to make more funds available for expansion activities through residual receipts collections, recaptures, and other unobligated balances. Additionally, the budget requests funding for demonstration programs that test housing with services models that fund supportive housing units aligned with health care priorities.

There are no other substantial legislative authority requests in the FY 2015 budget, but HUD does note its ongoing design process for an Aging in Place demonstration in affordable housing in partnership with the Department of Health and Human Services. The demonstration design describes three possible program models, explains the evidence base for the proposed model elements and discusses factors that will have to be taken into account to make implementation of the demonstration feasible and useful for producing valid research results.

Housing for Persons with Disabilities (Section 811)

For the Housing for Persons with Disabilities (Section 811) program, the Department requests $160 million in fiscal year 2015, an increase of $34 million above the 2014 Enacted level. This request includes $135 million for Project Rental Assistance Contract (PRAC) and Project Assistance Contract (PAC) renewals, as well as $25 million for new project rental assistance awards to support an estimated 894 integrated supportive housing units for persons with disabilities. The budget request seeks to renew the FY 2014 authority that allows HUD to make more funds available for expansion activities through residual receipts collections, recaptures, and other unobligated balances.

Rental Assistance Demonstration Program

The Department has also requested new authorities for the Rental Assistance Demonstration (RAD) Program which do not require any of the $10 million incremental subsidies. Other HUD budget proposals for RAD include:

- Eliminating the 60,000 unit cap on public housing and MR projects that could convert assistance to long-term Section 8 rental assistance contracts;
- Extending the application deadline for such conversions to September 30, 2018;
- Making Section 8 Moderate Rehabilitation Single Room Occupancy (SRO) properties eligible for RAD;
- Allowing the remaining Rent Supplement and RAP properties to convert to the PBS8 program through RAD. Amounts remaining on the contracts of a converting project and funding that would otherwise be used to provide short-term contract extensions, contract rent amendments, and/or Tenant Protection Vouchers for expiring contracts may be used for conversion.
- Extending the sunset date for Rent Supp and RAP conversions to September 30, 2016

The budget request for PBS8 in FY 2015 includes renewal funding for public housing properties that converted in 2013 under RAD, but properties that are converting in 2014 that will require renewal funds in 2015 are not reflected in this request. Instead, HUD states that it will use its statutory authority under the 2012 continuing resolution (P.L 112-55) to transfer amounts from the FY 2015 Operating Fund and Capital Fund appropriations to the PBS8 account.

FHA--General and Special Risk Insurance (GI/SRI) Fund

The GI/SRI includes insurance for loans to develop, rehabilitate, and refinance multifamily rental housing, nursing home facilities, and hospitals. GI/SRI programs also include loan guarantees for Title I manufactured housing and for property improvement loans. Active programs included under GI/SRI are authorized under Sections 220, 221(d)(3) with tax credits, 221(d)(4), 223(a)(7), 223(f), 223(d), 231, 241(a), 232, 207,and 242 of the National Housing Act and Sections 542(c) and 542(b) of the Housing and Community Development Act.

HUD requested commitment authority for up to $30 billion in new loan guarantees, the majority of which is expected to be used multifamily mortgages. This request is the same as HUD's FY 2014 proposal.

Budget Proposal for Rural Housing Programs

The U.S. Department of Agriculture's Rural Development (USDA-RD) programs provide assistance for home ownership, multifamily housing, and essential community facilities in underserved rural areas nationwide. However, this mission was severely compromised in 2013 after devastating sequestration cuts slashed RD's budget. Cuts to the Section 521 Rental Assistance (RA) program caused RD to not renew a number of contracts for multifamily properties in September 2013. These contracts were renewed in FY 2014, but the Agency will not make retroactive payments to cover the lost RA in September.

The proposed funding levels for RD's multifamily housing programs can be found in the chart below:

	Section 515	Section 521 Rental Assistance	Section 538 (Loan Level)	Revitalization and Rural Housing Vouchers
FY 2015 Budget Request	$28.43 Million	$1.09 Billion	$150 Million	$28 Million/ RHVs: $8 M
FY 2014 Enacted Level	$28.43 Million	$1.11 Billion	$150 Million	$32.57 Million/ RHVs: $12.58 M
FY 2013 Post-Sequester Level	$29 Million	$837 Million	$150 Million	$26 Million/ RHVs: $9 M

Congressional Justifications

RD has stated that the requested funding levels for Section 521 RA (coupled with savings proposals) will be sufficient to renew all expiring contracts in 2015. The 2015 budget also requests new authorities in an effort to "improve the management of the rental assistance program." The authorities included in the request are:

- The ability to renew contracts **"at the discretion of the Secretary"**;
- Rental assistance agreements entered into or renewed during the current fiscal shall be funded **up to one year and will not be renewed within the 12 month contract period**;
- A minimum of $50 in rent for tenants unless they qualify for a "hardship exemption"; and
- The ability to verify income through IRS and HHS databases.

These new authorities will also be proposed in tandem with a separate multifamily housing reinvention legislative package that will also include permanent authority for several financing options for the annual pilot program used to preserve and revitalize the existing Section 515 portfolio.

Rental Assistance (RA)

The Congressional Justifications for USDA-RD provide more information on the authority requests in the Section 521 Rental Assistance program listed above.

According to Rural Development, the rationale behind the first proposed reform (the ability to renew contracts "at the discretion of the Secretary") is to "selectively renew RA agreements during Continuing Resolutions and uncertain budget situations. The agency will clearly establish priority order of funding in situations similar to the recent sequestration, when funding was substantially reduced." This is a short term tool that would be used only for properties that meet selection criteria such as properties where more than 50 percent of the units are covered by RA or properties located in rural areas; only RA units used within the prior 12 months will be renewed. In testimony delivered to the House and Senate Appropriations Committee regarding the FY 2015 USDA budget request, NAHMA suggested that an advanced appropriation would offer a more straightforward mechanism to ensure RD has the necessary funding for contract renewals when the agency must operate under a continuing resolution rather than this proposal.

The Agency is also pursuing partial-year funding for the Rental Assistance Program. Current appropriation language requires Rural Development (RD) to obligate the entire 12-month estimated amount of RA funding at the time the agreement is renewed. While the 2015 budget request still assumes all renewals on a 12-month basis, RD believes the removal of the timeframe as a requirement will ensure flexibility when determining the amount of renewal funding, in times such as when the Federal government is operating on a short term CR, sequesters, and other budget uncertainties. In our testimony delivered to Appropriations Committees, NAHMA agreed that RD needs some degree of flexibility in its contract renewal procedures during times of extraordinary budget uncertainty. However, we stated that the flexibility must not absolve the agency of its financial obligations to owners for payment of RA during the term of the contract, nor should it be used as a budget gimmick to request less appropriations than are necessary to provide 12 months of contract funding at the time of renewal.

RD believes that ending automatic renewals will allow the agency to more efficiently utilize the RA resources and will eliminate the uncertainty of future program costs and provide budget predictability for the RA Program. The Congressional Justifications state that properties will receive an allocation for up to a one-year period and will be renewed on the funding anniversary date. RD estimates that the first year the re-renewals policy is stopped, the Agency will save $15 million in RA. Over time, once the policy has normalized and property owners have adjusted their budget plans to incorporate this change, RD expects that the proposal will save $32 million per year.

Next, RD believes a minimum rent of $50 will reduce the burden on the rental assistance program and foster tenant responsibility for program residents. The Agency will provide exemptions for hardship cases, similar to HUD's hardship exemptions provided to low-income renters. They estimate that the first year a minimum rent is introduced, RD will save $5 million. Over time, once the policy has normalized and worked its way through all the renewals on an annual basis, it is expected that it would save $20 million per year.

The last request would authorize the Secretary of Agriculture to obtain the same authorities granted to the Secretary of HUD for income verification in several key USDA's housing programs. RD believes these authorities will help with compliance on the Improper Payments Elimination and Recovery Act of 2010. By using and sharing relevant, reliable, and timely information, the Agency could reduce the number of improper payments made, including both payments that should not have been made or were made for incorrect amounts. If Congress provides such authority, NAHMA recommends that USDA-RD implement this request by seeking access to HUD's Enterprise Income Verification (EIV) System for RHS staff, as well as for authorized property owners and managers. EIV could be more efficient for RD to use for income verification rather than the Agency creating its own entirely new system.

Rural Multifamily Revitalization Program and Rural Housing Vouchers

Funding for the multifamily housing revitalization program rehabilitates housing or rental properties occupied by very low and low-income residents living in rural areas. In the FY 2015, RD has requested $28 million in funding, a decrease of $5.35 million from the FY 2014 enacted level. The Agency was vague as to why they requested a funding level that is much lower than previous years. In the Congressional Justifications, RD states that "Most, if not all, of the preservation [in 2013] was completed using multiple revitalization strategies. Funding of the Multifamily Housing Revitalization program will provide RHS with an appropriate mix of funds that can be used according to whichever program best suits the individual needs of each revitalization transaction."

Similarly, the Agency did not explain why funding for rural housing vouchers was severely cut. Of the $28 million proposed for the Revitalization program, $8 million would be set-aside for vouchers. This is a cut of more than $4.5 million from the FY 2014 enacted level. Currently, the voucher program is in a demonstration phase and has yet to be made permanent; in August of 2013, the Agency issued a proposed rule that would make it permanent. After this rule is implemented, RD believes it will be able to streamline the program, allowing it to serve a greater number of former tenants most in need of immediate and transitional assistance with their rent. In testimony delivered to the House and Senate Appropriations Committee regarding the FY 2015 USDA budget request, NAHMA urged the committee to carefully consider whether $8 million will be sufficient to meet the demand for Rural Housing Vouchers in the upcoming fiscal year.

Budget Request for the U.S. Treasury Department – Low-Income Housing Tax Credit

Along with proposed changes in HUD and RD, the Obama Administration's FY 2015 budget contains proposals to reform and expand the low-income housing tax credit (LIHTC).

The first proposal would allow states to convert a portion of their tax-exempt Private Activity Bond (PAB) authority 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. In addition, each State would be subject to an annual maximum amount of PAB volume cap that can be converted. LIHTC credits could also be obtained if there is an allocation of PAB volume cap in an amount not less than the amount of bonds that would be necessary to qualify for LIHTCs, and if the volume cap so allocated reduces the State's remaining volume cap as if tax-exempt bonds had been issued. This proposal was first introduced in the Administration's FY 2014 budget request. NAHMA supports this proposal.

The second 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 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. NAHMA supports this proposal.

The third proposal would add preservation of federally assisted affordable housing as an eleventh 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.

A fourth proposal would change the formulas for 70 percent present value credit rate and 30 percent present value credit rate LIHTCs. The Housing and Economic Recovery Act of 2008 provided a temporary minimum applicable percentage of nine percent for the 70-percent present value credit rate for buildings placed in service before December 31, 2013. The American Taxpayer Relief Act of 2012 extended the nine-percent rate to apply to credit allocations made before January 1, 2014. The Obama Administration believes the new discount rate would better reflect the private-market discount rates. The change would apply to both 70 percent and 30 percent allocated LIHTCs. Under the proposal, the discount rate to be used would be the average of the mid-term and long-term applicable Federal rates for the relevant month, plus 200 basis points. NAHMA believes that having a flat 9% credit, as seen in Maria Cantwell's bill S. 1442, the Improving the Low Income Housing Tax Credit Rate Act, is superior to this Treasury proposal because it would provide more predictability.

The fifth proposal would permit a Real Estate Investment Trust (REIT) that receives LIHTCs to designate as tax exempt some of the dividends that it distributes. Dividends so designated would be excluded from the gross income of the shareholders that receive them. The amount so designated could not exceed the quotient of the REIT's LIHTCs for the year (divided by the highest corporate tax rate). The proposal continues that if there are insufficient earnings and profits to pay this amount of dividends, the unused authority to designate tax-exempt dividends could be carried forward indefinitely. NAHMA supports this proposal.

Also, if a REIT or regulated investment company (RIC) is a shareholder that receives these tax-exempt dividends, the recipient could designate as exempt a corresponding amount of dividends that it distributes. NAHMA supports this proposal.

Finally, the budget proposes 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 good 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 because the 2013 VAWA Reauthorization Act lacked enforcement provisions for LIHTC properties. The current reauthorization of VAWA explicitly prohibits recapturing LIHTCs for noncompliance with the law's requirements.

Conclusion

Congress is unlikely to adopt the President Obama's budget in its entirety. Still, the President's budget is important to examine because it gives us an in-depth look at the Administration's policy priorities. Some of these policy proposals could appear in future legislation as well, so they are important to note early on. NAHMA will follow the progress of this budget and monitor its most concerning proposals. We will advocate to Congress that funding for programs such as project-based Section 8 cannot under any circumstance fall below the FY 2014 levels and that any appropriations must ensure full-funding for multifamily housing programs.