

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

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FY 2008 Appropriations for Affordable Housing Programs

Effective Date or Deadline

President Bush signed the FY 2008 Consolidated Appropriations Bill (H.R. 2764) on Dec. 26, 2007 as Public Law 110-161.

Background

The new federal fiscal year 2008 began on October 1, 2007. By that date, all annual appropriations bills which fund federal agencies are supposed to have been signed into law. This year, not a single one of the 12 appropriations bills was enacted by October 1. Even the Defense Appropriations Act (H.R. 3222, P.L. 110-116) was not signed until November 13, 2007—nearly six weeks into the new fiscal year. The breakdown of this process required four temporary spending measures known as continuing resolutions before the funding for the remaining agencies was put into place through the FY 08 Consolidated Appropriations bill.

The FY 2008 Consolidated Appropriations bill (also referred to as the FY 08 “Omnibus”) includes 11 of the 12 annual appropriations bills. It appropriates \$473.5 billion for nearly every federal agency, except those funded by the Defense Appropriations Act. The bill provides an additional \$42.2 billion in emergency spending, of which \$31 billion is directed to military operations in Iraq and Afghanistan.

Summary

Funding for the U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Agriculture-Rural Housing Service (USDA-RHS) multifamily housing programs is provided in the FY 08 Consolidated Appropriations bill. Overall, results are mixed.

In terms of FY 2008 appropriations for HUD programs, both Tenant-Based and Project-Based Section 8 received modest increases above the FY 2007 appropriation levels, of about \$500 million and \$400 million respectively. To put the importance of even this modest increase for Project-Based Section 8 in perspective, it is important to note that this program survived the real threat of major cuts requested by the President and originally included in the Senate’s Transportation-HUD legislation. NAHMA is also

pleased to report that Congress appropriated \$380,000 for LEP translations. This funding represents a significant step forward in our efforts to offset the costs to housing providers associated with HUD's LEP guidance, while at the same time, ensuring those who do not speak English have access to low-income housing. Section 202 and Section 811 remained essentially flat-funded at FY 2007 levels. Unfortunately, CDBG and HOME sustained moderate cuts.

There is also good news and bad news to report for the USDA-RHS programs. For Section 515, Congress rejected the Administration's call to "zero-out" funding. Nevertheless, they did cut \$29 million from the program. Section 538 multifamily loan guarantees were increased \$30 million over FY 2007 appropriations. Rental Assistance was cut below the FY 07 appropriation, and contracts entered into or renewed will be for one-year terms.

The funding for key affordable multifamily housing program accounts is summarized below. Figures are rounded.

Key HUD Appropriations Accounts

FY 2008 Tenant-Based Rental Assistance Appropriation: \$16.4 billion (total); \$14.7 billion (renewals)

Budget Request: \$14.4 billion

FY 2007 Appropriation: \$15.9 billion

Within this account, money is to be distributed as follows:

- Voucher Renewals: \$14.7 billion
- Tenant Protection Vouchers: \$200 million
- Administrative Fees: \$1.35 billion
- HUD-VASH vouchers: \$75 million
- Nonelderly Disabled Vouchers: \$30 million
- Family Unification Vouchers \$20 million
- Family Self-Sufficiency Coordinators: \$49 million
- Working Capital Fund: \$6.5 million

Funding-wise, this program constitutes more than half of HUD's budget and remains a successful program. The program received a modest \$500 million increase to the program in total funding, and includes a new HUD-VASH account to assist homeless veterans.

FY 2008 Project-Based Rental Assistance Appropriation: \$6.38 billion (total); \$6.14 billion (renewal)

Budget Request: \$5.81 billion (total), \$5.52 billion (renewals)

FY 2007 Appropriation: \$5.98 billion (total), \$5.83 billion (renewals)

Total funding for Project-Based assistance will be distributed as follows:

- Contract Renewals: \$6.14 billion
- Contract Administrators: \$286 million
- Working Capital Fund: \$3.96 million

Project-Based Section 8 funding avoided major funding cuts in the Senate Appropriations bill, and gained an additional \$400 million in total funding (\$309.8 million for renewals). We fear the \$6.14 billion for contract renewals still falls short of an estimated \$8.1 billion necessary to fully fund the 12 month increments of contracts renewed in FY 08. On November 16, 2007, HUD Chief Financial Officer John Cox wrote to Chairwoman Maxine Waters,

“To resume a full 12 months funding at the time of contract renewal in FY 2008, HUD estimates it would require \$1.5 billion to complete the funding on FY 2007 HAP contract renewals that were incrementally funded into FY 2008, and an additional \$6.6 billion to fully fund for 12 months all HAP contract renewals that come due in FY 2008. The \$6.1 billion provided for contract renewals in the conference agreement on the pending HUD Appropriations Act for FY 2008 would enable HUD to continue to incrementally fund contract renewals into December of 2008.”¹

It is NAHMA’s goal to have Congress pass emergency supplemental appropriations for this program at the earliest opportunity.

FY 2008 Limited English Proficiency (LEP) Funding: \$380,000

Budget Request: \$0

FY 2007 Appropriation: \$0

In terms of Fair Housing, NAHMA was instrumental in encouraging Congress to apportion funds for LEP translations. Congress has approved the use of \$380,000 to create and promote translated materials to assist those with LEP in order to utilize HUD services. The Joint Explanatory statement directed HUD, “Within the resources provided under this section, the Secretary, in consultation with the appropriate housing providers and interest groups, shall give priority to specific languages that currently have high concentrations in HUD assisted properties and activities.”

FY 2008 Section 202 Housing for the Elderly: \$735 million

Budget Request: \$575 million

FY 2007 Appropriation: \$734.6 million

Total funding for Section 202 in FY 2008 is allocated accordingly:

- \$629 million for capital advance and project-based rental assistance awards
- \$60 million for service coordinators
- \$24.8 million for conversion of eligible projects to assisted living conversion grants and for emergency capital repairs

¹ HUD provided responses to 16 follow-up questions from the Housing Subcommittee’s October 17 hearing on late HAP payments. This information is repeated in HUD’s response to question #6 from the Subcommittee. HUD’s responses to all of the Subcommittee’s questions are available on NAHMA’s website through the link: [HUD Provides Answers to Questions Submitted for the Record following Oct. 17, 2007 House Hearing on Late HAPs.](#)

- \$20 million for making competitive grants to private nonprofit organizations and consumer cooperatives for covering planning, work, and site control costs
- \$1.4 million may be transferred to the Working Capital Fund

Congress has maintained flat funding in the face of Presidential request for cuts to Elderly housing. While no cuts were made to Section 202 appropriations, no significant changes to the funding have been made over the last three years in order to adjust for inflation. This year, the program only received a \$420,000 increase in appropriations.

FY 2008 Section 811 Housing for the Disabled Appropriation: \$237 million

Budget Request: \$125 million
 FY 2007 Appropriation: \$236.6 million

Total funding for Section 811 is allocated as follows:

- \$600,000 may be transferred to the Working Capital Fund
- \$74.8 million for amendments or renewal of tenant-based assistance contracts entered into prior to fiscal year 2005.

Congress has maintained flat funding in the face of Presidential request for cuts to Disabled housing. While no cuts were made to Section 811 appropriations, no significant changes to the funding have been made over the last three years in order to adjust for inflation. This year the program received only \$390,000 increase in appropriations.

FY 2008 HOME Appropriation: \$1.7 billion (total), \$1.63 (estimated formula grant)

Budget Request: \$1.97 billion (total); \$1.9 billion (estimated formula grant)
 FY 2007 Appropriation: \$1.76 billion (total); \$1.69 billion (estimated formula grant)

Within HOME, funding is directed as follows:

- \$10 million for down-payment assistance for low-income families;
- \$3.5 million to Working Capital Fund;
- \$12.5 million for technical assistance;
- \$50 million for housing counseling;
- \$1.63 billion estimated for formula grants

It is disappointing to report that HOME's formula grant, which provides funding for rental assistance and development of affordable multifamily housing, was cut this year in order to meet the spending targets set by the President.

FY 2008 CDBG Appropriation: \$3.59 billion (formula grant)

Budget Request: \$2.97 billion (formula grant)
 FY 2007 Appropriation: \$3.7 billion (formula grant)

CDBG was cut \$117 million below its FY 07 appropriation, but spared the \$822 million cut proposed by the Administration. HUD rationalizes the proposed cuts as a response to the inequality and lack of oversight in the formulas, unchanged since their inception in 1978, used to distribute the funds among communities. Like HOME, the CDBG program was a casualty of the President's demand to cut spending.

Noteworthy Policy Riders

Sec. 221 increases the FHA multifamily loan limits in high cost areas.

Sec. 225 permits "public housing agencies that own and operate 400 or fewer public housing units" to be exempt "from any asset management requirement imposed by the Secretary of Housing and Urban Development in connection with the operating fund rule." This provision essentially exempts small PHAs from HUD's new asset management rule.

NAHMA was instrumental in strengthening Sec. 235. This provision was originally introduced by Senator Russell Feingold in order to tighten the budget reporting requirements for FY 2007- FY 2009 project-based funding. The final language requires HUD, within 60 days of enactment of this act, to submit:

- Complete and accurate accounting of the actual Project-Based renewal costs for Project-Based assistance under Section 8 for FY 2007 and FY 2008;
- Revised estimates of the funding needed to fully fund all 12 months of all Project-Based contracts under such Section 8, including Project-Based contracts that expire in fiscal year 2007 and fiscal year 2008; and
- Identification of all sources of funding that will be used to fully fund all 12 months of the Project-Based contracts for FY 2007 and FY 2008.

During the 60 days, HUD may submit corrections or updates to the information required if it reveals a greater understanding of HUD's implementation of Project-Based programs. The amendment also requires HUD to present a verification of its FY 2009 budget request.

Key RHS Accounts in the Agriculture Appropriations Bill

FY 2008 Section 515 Appropriation: \$70 million

Budget Request: \$0
FY 2007: \$99 million

Since FY 2006, the Administration has called for drastic cuts in Section 515 appropriations. Congress has insisted that some funding remain available, but proceeded to cut the program by \$29 million this year.

According to the Joint Explanatory Statement to accompany H.R. 2764, significant portions of Section 515 appropriations have been used for repair and rehabilitation, and "...these repairs can be more efficiently accomplished utilizing tools available under the Revitalization Initiative." Therefore, "the funding that would have been provided to the Section 515 account and used for Section 515 repair and rehabilitation is appropriated directly to" the Multifamily Housing Revitalization Program Account.

FY 2008 Section 521 Rental Assistance Appropriation: \$482 million

Budget Request: \$567 million
FY 2007: \$616 million

While funding for this account was reduced below FY 07 levels by roughly \$137 million, contract lengths were also reduced to one year. According to the Joint Explanatory Statement, "...this funding level provides a five percent funding reserve to cover any unforeseen disruptions for renewing contracts. It is expected that one-year contract terms will allow for more accurate cost estimation and will reduce the recent cost fluctuations in this program." Based on our members' experience with annual contracts in the HUD universe, NAHMA is skeptical of these claims.

FY 2008 Section 538 Loan Guarantee Program Appropriation: \$130 million

Budget Request: \$200 million
FY 2007: \$99 million

While Congress did increase funding by \$30 million to Section 538, it still did not reach the USDA-RHS budget's requested levels. NAHMA is pleased by this increase, but we do not consider the loan guarantee program a replacement for Section 515.

Multifamily Housing Revitalization Program Account: \$28 million

The Multifamily Housing Revitalization Program includes funds for the rural housing voucher program, multifamily revolving loan demonstration program, and the Section 515 preservation demonstration program.

Budget Request: \$27.8 million
FY 07 Appropriation: N/A

Within this account, funding is provided as follows:

- \$5 million for rural housing vouchers to assist families residing in a Section 515 property which prepaid the loan after September 30, 2005;
- \$3 million for the preservation revolving loan program; and
- \$20 million for the demonstration program to preserve and revitalize Section 514, Section 515 and Section 516 properties.

Positive Aspects of This Legislation

Although nearly three months overdue, FY 2008 appropriations for low-income housing are finally in place. This, surprisingly, is an improvement over FY 2007, when the Omnibus appropriations bill was enacted on February 15, 2007—more than four months late!

The very real threat of cuts to Project-Based Section 8 did not materialize in HR 2764. The President's budget request (and the original FY 08 Senate recommendation) would have cut funding for contract renewals by more than \$300 million below the FY 07 appropriation. As many NAHMA members painfully recall from last summer, the FY 07 appropriations fell more than \$1 billion short of the amount necessary to fully fund HAP contracts. After much pressure from NAHMA and low-income housing industry partners, Congress provided a modest increase rather than a devastating reduction. Nevertheless,

information HUD provided to the House Financial Services Subcommittee on Housing and Community Opportunity estimated the amount needed to fully fund FY 08 HAP contracts for their 12-month terms is around \$8.1 billion--almost \$2 billion greater than the \$6.14 billion approved.

Congress wisely rejected outright cuts to Section 202 and Section 811, opting for flat-funding instead.

NAHMA was instrumental in procuring LEP translation funding, and we will continue to work with Senator Menendez to move forward with the authorization bill accompanying this appropriation.

We also worked closely with Senator Feingold's office to advance the Project-Based Section 8 budget reporting requirements in Sec. 235. Working with the House and Senate Appropriations Committees, NAHMA was also able to strengthen the requirements from the language originally in the Senate bill.

Issues of Concern to NAHMA

We remain concerned over the continued delays in completing the appropriations process. NAHMA will continue to strongly urge Congress to complete the process before the new fiscal year begins.

The trends in funding and HUD's administration of the Project-Based Section 8 program remain an enormous concern to NAHMA. Even with the modest increase in funding, we do not believe that the current appropriations will be sufficient to fully fund the terms of HAP contracts. As previously discussed, HUD's estimates suggest that a necessary level of funding for Project-Based Section 8 is about \$8 billion. Members can be assured that NAHMA will continue to crusade for increased funding as an emergency supplemental appropriation.

It is also worth noting the harsh words of Appropriations Committee members regarding the Department's handling of Project-Based Section 8. In its Joint Explanatory Statement to accompany H.R. 2764, the Appropriations Committee lamented HUD's "inability to identify actual funding needs for Project-Based Rental Assistance renewals." They proceeded,

"In light of what appears to be a severe funding shortage, the Department has taken the drastic step of abandoning its practice of 12-month contracts and has been sending short-term renewal contracts that impact owners, landlords, financial institutions, and most importantly, tenants of Project-Based housing.

A large part of the problem is that the Administration has not determined if 12-month contracts can be conditioned on the availability of funds and can be funded incrementally. The Appropriations Committees instruct HUD and OMB to make a final determination about whether an Anti-Deficiency Act (ADA) violation would exist under those circumstances by January 15, 2008. If no violation would exist, then HUD is instructed to immediately begin issuing 12 month contracts subject to the availability of funds. If a violation would exist or has occurred, the administration must report that violation to the Committees immediately."

While Congress did not cut Section 202 and Section 811 appropriations outright, both programs were flat-funded. These are among the few programs that still produce affordable rental housing. With a relatively flat funding level, as appropriations for other important line items within these accounts (such as the Project Rental Assistance contracts) necessarily increase, we expect there will be less money available for new construction. We continue encouraging Congress to increase funding for these important programs in order to keep pace with escalating construction and overall development costs.

NAHMA was disappointed Congress cut funding for CDBG and HOME. We are hopeful that these cuts can be restored in the near future. If the downward pressure on the budgets for affordable housing programs continues, how long will it be before there are significant cuts to Project-Based Section 8 funding?

NAHMA's position

Considering the devastating cuts proposed to key programs in Administration's budget request and the original Senate bill, the resulting FY 08 appropriations are a strong testament to the effectiveness of NAHMA and continued grassroots advocacy by our members. We request that our members continue their grassroots efforts to show how low-income housing programs benefit the tenants as well as the community. Furthermore, we encourage members to keep us informed if there are disruptions in the HAP payment process. We also recommend that members promptly communicate HAP payment problems to their Congressional delegations.

Please be assured that the fight for sufficient Project-Based Section 8 funding is not finished, and NAHMA remains at the forefront. We will continue working for emergency supplemental appropriations in FY 08. In fact, we are already reaching out to interested members of Congress to build support. Likewise, we will work to secure the necessary appropriations to fully fund HAP contracts in FY 2009. On February 4, 2008, the President will submit his FY 2009 budget to Congress. Hearings will be held in March, and NAHMA will keep members informed of all relevant developments.

In the meantime, we encourage members to continue communicating with NAHMA and their elected officials to ensure an exceptional quality of living for all Americans.