

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

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FY 2009 Appropriations for Affordable Housing Programs

Effective Date or Deadline

President Obama signed H.R. 1105, the FY 2009 Consolidated Appropriations Act, into law on March 11, 2009 as P.L. 111-8.

Background

The Bush Administration released its FY 09 Budget Requests in February 2008. The new federal fiscal year 2009 began on October 1, 2008. By that date, all annual appropriations bills which fund federal agencies are supposed to have been signed into law. This year, nine appropriations bills were not enacted by October 1, and government funding was provided by two Continuing Resolutions at FY 2008 levels until March 11, 2009. There was an impasse between the Democratic Congress and the Bush Administration, resulting in the first Continuing Resolution. The second was passed in order to give the Senate more time to consider H.R. 1105.

The FY 2009 Consolidated Appropriations bill (also referred to as the FY 09 “Omnibus”) provides \$410 billion for nearly every federal agency, except those funded through the normal appropriations process.

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 09 Consolidated Appropriations bill. Overall, HUD programs received considerable increases in funding, while rural programs received cuts.

In terms of FY 2009 appropriations for HUD programs, Tenant-Based Section 8 vouchers received modest increases above the FY 2008 appropriation levels. Project Based Section 8 funding received a large boost and an advanced appropriation for FY 2010 to help cover the program shortfalls of recent years. NAHMA is also pleased to report that Congress appropriated \$500,000 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 received slight increases in funding over FY 2008 levels. CDBG and HOME received moderate funding increases in comparison to FY 2008 appropriations.

Except for Sec. 521 for Rental Assistance, USDA-RHS programs received slight cuts to their programs. Because of the change in how often Sec. 521 contracts are renewed, appropriations for Rental Assistance almost doubled this year over FY 08 levels. The Multifamily Housing Revitalization Program Account also received \$27.7 million this year.

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

Key HUD Appropriations Accounts

FY 2009 Tenant-Based Rental Assistance Appropriation: \$16.8 billion (total); \$15 billion (contract renewals)

Budget Request: \$16.04 billion
FY 2008 Appropriation: \$16.4 billion

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

- Voucher Renewals: \$15.034 billion
- Section 8 renewal and replacement of units: \$150 million
- Family Unification Program: \$20 million
- Working Capital Fund: \$7.9 million
- HUD-(Veteran Affairs Supported Housing) VASH vouchers: \$75 million
- Non-elderly Disabled Vouchers: \$30 million
- Family Self-Sufficiency Coordinators: \$50 million

Funding-wise, this program constitutes more than half of HUD's budget and remains a successful program. The program received a \$400 million increase in total funding.

FY 2009 Project-Based Rental Assistance Appropriation: \$7.1 billion (total); \$6.87 billion (renewal); plus \$400 FY 2010 Advanced Appropriation

Budget Request: \$7.0 billion (total), \$6.76 billion (renewals); plus \$400 million in FY 2010 advanced appropriations
FY 2008 Appropriation: \$6.38 billion (total), \$6.14 billion (renewals)

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

- Contract Renewals: \$6.868 billion
- Contract Administrators: \$232 million
- Working Capital Fund: \$10 million

Project-Based Section 8 funding also received a major boost from H.R. 1, the American Reinvestment and Recovery Act, which provided an additional \$2 billion to the Section 8 program to help alleviate the

past funding shortfalls that have put stress on the properties. H.R. 1 was signed into law (P.L. 111-5) on February 27, 2009 before the Omnibus was enacted.

H.R. 1105, on the other hand, provides FY 09 funding for the Project Based Section 8 program and directs HUD to prioritize the needs of the Project Based Section 8 account when making decisions about the Working Capital Fund investments. Furthermore, HUD must submit a plan to the House and Senate Committees on Appropriations by June 15, 2009 on the steps it will take to reduce the problems of late payments and to better track the contracts in this account. This plan must include milestones for resolving these technical problems that hinder performance in this account.

H.R. 1105 also calls for any remaining FY 2009 and prior appropriations from the Housing Certificate Fund, Annual Contributions for Assisted Housing, and Project-Based Rental Assistance be used for the renewal of or amendments to Section 8 project-based contracts and for performance-based contract administrators.

FY 2009 Limited English Proficiency (LEP) Funding: \$500,000

Budget Request: \$0

FY 2008 Appropriation: \$380,000

In terms of Fair Housing, NAHMA was instrumental in encouraging Congress to apportion funds for LEP translations. Congress has approved the use of \$500,000 to create and promote translated materials to assist those with LEP in using HUD services.

FY 2009 Section 202 Housing for the Elderly: \$765 million

Budget Request: \$550 million

FY 2008 Appropriation: \$735 million

Total funding for Section 202 in FY 2009 is allocated accordingly:

- \$626 million for capital advance and project-based rental assistance awards
- \$90 million for service coordinators
- \$25 million for conversion of eligible projects to assisted living conversion grants and for emergency capital repairs
- \$20 million for making competitive grants to private nonprofit organizations and consumer cooperatives for covering planning, work, and site control costs
- \$2 million for technical assistance
- \$1.6 million may be transferred to the Working Capital Fund

The \$30 million increase in funding for Section 202 directed to the service coordinator program. Congress continues to flat fund capital advance and project-based rental assistance awards, conversions, and technical assistance for the Section 202 program. However, the Bush Administration's budget proposal called for cuts to Elderly housing.

According to the Joint Explanatory Statement to accompany H.R. 1105, the legislation does not include funding for a mixed-finance demonstration program for Section 202, but encourages the Department to use its substantial authority under existing law to streamline the ability of project sponsors to leverage

other public and private sources of capital financing, including the low income housing tax credits. The Joint Report urges HUD to outsource the post-award processing of development applications to state housing finance agencies to shorten the project development timeline without losing quality monitoring and oversight for the Section 202 program.

FY 2009 Section 811 Housing for the Disabled Appropriation: \$250 million

Budget Request: \$160 million

FY 2008 Appropriation: \$237 million

Total funding for Section 811 is allocated as follows:

- \$1.6 million may be transferred to the Working Capital Fund
- \$161 million for capital advances and project-based rental assistance
- \$87 million for amendments or renewal of tenant-based assistance contracts entered into prior to fiscal year 2005.

The \$13 million increase in funding for Section 811 is set aside for amendments or renewal of tenant-based assistance contracts entered into prior to fiscal year 2005. Congress continues to flat fund capital advance and project-based rental assistance awards for the Section 811 program. However, the Bush Administration's budget proposal called for cuts to Disabled housing funding.

Also within this section, H.R. 1105 requires HUD to submit a budget to the House and Senate Committees on Appropriations before funding any REAC inspections for Section 811.

According to the Joint Explanatory Statement to accompany H.R. 1105, the legislation does not include funding for a mixed-finance demonstration program for Section 811, but encourages the Department to use its substantial authority under existing law to streamline the ability of project sponsors to leverage other public and private sources of capital financing, including the low income housing tax credits. The Joint Report urges HUD to outsource the post-award processing of development applications to state housing finance agencies to shorten the project development timeline without losing quality monitoring and oversight for the Section 811 program.

FY 2009 HOME Appropriation: \$1.83 billion

Budget Request: \$1.97 billion

FY 2008 Appropriation: \$1.7 billion

Within HOME, funding is directed as follows:

- \$4.2 million to Working Capital Fund;
- \$12 million for technical assistance;

HOME's formula grant, which provides funding for rental assistance and development of affordable multifamily housing, was increased by \$125 million this year, but did not reach the President's budget request.

FY 2009 CDBG Appropriation: \$3.9 billion

Budget Request: \$3 billion
FY 2008 Appropriation: \$3.87 billion

CDBG received an increase in funding close to \$34 million in comparison with its FY 08 appropriation and was spared the significant cuts proposed by the Bush Administration.

FY 2009 Hope VI Appropriations: \$120 million

Budget Request: \$0
FY 2008 Appropriation: \$100 million

Hope VI provides funding to public housing agencies for demolition, site revitalization, replacement housing, and tenant-based assistance grants to properties.

Noteworthy Policy Riders

Section 216 sets forth requirements for eligibility for Section 8 voucher assistance, and includes a consideration for persons with disabilities. No assistance will be provided to students attending an institution of higher education who are: under 24, not a veteran, unmarried, do not have dependent children, do not have a disability, is otherwise ineligible, or have parents who are not eligible to receive assistance. Any financial assistance (in excess of tuition) that an individual receives under the Higher Education Act of 1965 from private sources, or an institution of higher education, will be considered income to that individual, except for a person over the age of 23 with dependent children.

Section 218 requires HUD to maintain any rental assistance payments that are attached to the property unless there are excessive costs of rehabilitating and operating the property and environmental conditions that cannot be remedied in a cost-effective fashion.

Section 223 extends the HOPE VI program through September 30, 2009.

Section 224 requires HUD to submit a complete and accurate accounting of project based renewal costs, revised estimates, and sources of funding.

Section 227 requires that the Secretary shall report quarterly on the status of all Project-Based Section 8 housing.

Section 228 expands service coordinators to Section 811.

Section 233 requires HUD to publish NOFAs online.

Section 234 allows refinancing and prepayment of certain section 202 loans if the project sponsor agrees to operate the project until the maturity date of the original loan and the prepayment may involve refinancing of the loan.

Section 239 allows the Disaster Housing Assistance Programs to be considered a HUD program for the purpose of income verifications and matching.

Key RHS Accounts in the Agriculture Appropriations Bill

FY 2009 Section 515 Appropriation: \$69.5 million

Budget Request: \$0
FY 2008: \$70 million

Since FY 2006, the Administration has called for drastic cuts in Section 515 appropriations. Congress has insisted that some funding remain available, but essentially flat funded the program this year. The legislation calls for any remaining balances from previous appropriations to the program to be transferred to the Multifamily Housing Revitalization Program.

FY 2009 Section 521 and Rental Assistance Appropriation: \$902.5 million

Budget Request: \$997 million
FY 2008: \$482 million

The administration called for significant increases to the rental assistance appropriations this year. The USDA FY 09 Budget Overview noted that to renew all 230,000 units for FY 09, about \$997 million was necessary. It also said \$897 million would be for rental assistance payments and \$100 million for a new rental assistance pilot program for vouchers. While the new rental assistance pilot program for vouchers was not included, Congress appropriated \$891 million for the rental assistance program. NAHMA will continue to monitor these levels to ensure full funding.

FY 2009 Section 538 Loan Guarantee Program Appropriation: \$129 million

Budget Request: \$300 million
FY 2008: \$130 million

Congress slightly reduced funding for the Sec. 538 program and did not consider the USDA-RHS budget proposal's increase. While Congress has appropriated \$129 million for the 538 program, they have provided much less for the interest subsidy, \$8 million, when compared to the \$20 million suggested in the Senate Appropriations Committee bill (S. 3289) last year. More than that, the legislation specifically prohibits using the \$8 million for 2009 NOFA applications. RHS has already issued its 2009 NOFA, providing for interest subsidy, under the notion that it would receive continued funding the interest subsidy and keep the loan pipeline moving. Unless the interest credit subsidy is quickly corrected, that pipeline will have to shut down for 2009, and the program will be severely impacted. NAHMA is working with the Council for Affordable Rental Housing and has reached out to Senate Appropriations staff to find out more about this issue.

Multifamily Housing Revitalization Program Account: \$27.7 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: \$0

FY 08 Appropriation: \$28 million

The Administration called for the program, which they created, to be scrapped because Congress has yet to pass the authorizing language for it. Congress wisely rejected the call and continued to fund the program; however, the authorizing language has yet to be enacted. The Joint Explanatory Statement also directs USDA-RHS to analyze the program and make recommendations on whether the program should be made permanent and, if so, what changes would be necessary to improve the program's delivery or effectiveness.

Positive Aspects of This Legislation

Although almost six months overdue, FY 2009 appropriations for low-income housing are finally in place. This has resulted in almost half a fiscal year's worth of funding affordable housing programs at FY 08 levels, not the higher FY 09 levels.

After much pressure from NAHMA and low-income housing industry partners, Congress finally answered the call to increase funding for Project Based Section 8 through the significant \$2 billion boost included in H.R. 1 and the \$7.1 billion provided through the FY 2009 omnibus appropriations. Congress also put in strong language requiring HUD to report the funding needs of the program and to provide quarterly updates to Congress about the status of the program.

NAHMA was instrumental in procuring LEP translation funding for FY 08 and FY 09. However, this was done as an unauthorized appropriation. Because of the tight budget environment, unauthorized appropriations for these services cannot be guaranteed in the future. Authorizing funding for LEP translations, interpretation assistance and services would provide greater assurance that a reliable stream of funding will be available to provide persons with LEP a consistent level of service and quality translations in future years. It would also guide HUD in the use of authorized LEP appropriations. Therefore, NAHMA will continue working with Congress to move forward with the authorization language, either through SEVRA or stand-alone legislation.

We are also pleased to see that Hope VI funding has been re-included in the FY 2009 appropriations and that the program has been extended through the end of the fiscal year, giving Congress time to reconsider Hope VI reauthorization legislation.

NAHMA appreciates the large increase in rural housing rental assistance (including Sec. 521), which need to be renewed yearly after changes in the FY 08 appropriations. We invited feedback from members on the timeliness and sufficiency of rental assistance payment. Congress also wisely rejected the administration's call to cut funding to the Multifamily Housing Revitalization Program Account for rural properties.

Issues of Concern to NAHMA

We remain concerned over the continued delays in completing the appropriations process. Last year presented a very unique situation with a lame-duck President in an election year, coupled with a Congress

from an opposition party. However, delayed appropriations followed by temporary continuing resolutions have been on-going problems for a number of years. 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 change in administration and increase in funding to cover the Section 8 shortfall, we will continue to stay vigilant to ensure the program receives enough appropriations to provide full funding for 12-month contracts.

Congress continues to flat-fund both Section 202 and Section 811. These are among the few programs that still provide new construction for affordable rental housing. With increased operating costs and rising inflation, there is less and less money available for new construction when these programs are flat-funded. Financing new construction and rehabilitation is already difficult enough because of the credit crunch and the financial crisis. Providing additional appropriations to these sectors will not only produce new affordable housing units for the growing elderly and disabled populations, but will provide additional jobs and investment opportunities in the market. We continue encouraging Congress to increase funding for these important programs in order to keep pace with inflation, escalating construction, and overall development costs.

NAHMA was disappointed with the cuts to RHS affordable multifamily housing programs. The slight cuts to the rural Sec. 515 and Sec. 538 do nothing to keep pace with the programs needs. With increased operating costs and rising inflation, there is less and less money available for new construction or rehabilitation when these programs are flat-funded. Providing additional appropriations for rural housing will produce new affordable housing units in rural markets and will provide much needed additional jobs and investment opportunities in these areas. Increased rural rental assistance is not a substitute for these loan programs.

NAHMA's position

Considering the significant cuts proposed to key programs in Bush Administration's final budget request, the resulting FY 09 appropriations are a strong testament to the effectiveness of NAHMA and the continued grassroots advocacy by our members. We urge our members to continue their grassroots efforts to show how low-income housing programs benefit the tenants as well as the community.

We remain pleased that Congress has finally taken the appropriate steps to fully fund HAP contracts and has required HUD to report back to Congress on the needed funding and the status of the program on a timely basis.

Now that the FY 09 appropriations process is complete, work on the FY 2010 Budget is underway. NAHMA is happy to report that President Obama's FY 2010 Budget outline and the Senate Budget Committee's budget resolution for the FY 2010 Budget proposal reaffirmed the Administration's and Congress's commitment to increasing funding for the Project-Based Section 8 program (the House Mark made no mention of funding levels for the program). The House Financial Services Committee Views and Estimates for FY 2010 Budget comments that the program will be able to return to fully funding 12-month contracts after the funding infusion from H.R. 1 and FY 09 Appropriations, allowing HUD to focus on authorizing a regulatory changes to address the rehabilitation and preservation needs of the Project-Based Section 8 housing stock.

Nevertheless, we encourage members to keep us informed if there are disruptions in the HAP payment process or other ongoing problems. We also recommend that members promptly communicate HAP

payment problems to their Congressional delegations. NAHMA will work to ensure the necessary appropriations to fully fund all affordable housing programs for the FY 2010.

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.